



**INTERNATIONAL ASSOCIATION OF JUDGES
UNION INTERNATIONALE DES MAGISTRATS
UNION INTERNACIONAL DE MAGISTRADOS
INTERNATIONALE VEREINIGUNG DER RICHTER
UNIONE INTERNAZIONALE DEI MAGISTRATI**

Founding an Association of Judges

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FOREWORD

“Judges shall be free to form and join associations of judges (...) to protect their judicial independence.”

The quote is from the Basic Principles on the Independence of the Judiciary and could not be clearer.

Judges must be entitled to form an association of judges. This right shall stand to preserve judicial independence.

This is why, in every justice system, an association of judges has to exist.

Rule of Law, in its plural aspects, also depends on this fundamental requisite: to allow judges to have a collective body devoted to promote an independent and impartial judiciary. Only then, every citizen can be legitimately confident on the fairness of courts.

The International Association of Judges is the biggest organization representing judges worldwide.

We have now more than ninety national associations, the most representative for each country, from all continents, signifying wide-ranging juridical traditions and cultures, gathering “civil law” and “common law” judicial systems.

Employing the seminal concept of Alexis de Tocqueville, associations have the fundamental role of enabling social integration through the values of cooperation and solidarity.

Having in mind the crucial role of judges to preserve

a proper equilibrium within the State powers, the present initiative of the International Association of Judges to offer a substantial guideline for those who wish to establish judge's associations in a sovereign country intends, precisely, to encourage Rule of Law and to promote democratic societies based on dialogue and tolerance.

Our 94 members managed to construct, with hard work and resilience, cooperative organizations at the service of social responsibility.

It is now the right historical moment to have associations of judges in more countries. In the present context of crisis for democracies intensified by dystopian temptations enabled by digital technology and now "justified" by the pandemic, this common purpose gained relevance.

"Founding an Association of Judges" exists to assist judges of all those countries that do not have a collective institution to represent them. With the compiled information now provided, including the legal background and the different steps to start a judge's association, with the models of Statutes coming from consolidated national associations of different legal systems, we believe to have been able to provide an important tool for the future.

This project does not end with the present publication; IAJ is available to offer guidance for the further involved phases always in a pragmatical and concrete manner.

But, for now, help us to disseminate the present document and, above all, to create associations of judges in

regions and countries still devoid of such organizations.

By doing so, by shaping stronger judiciaries, Rule of Law will be strengthened and citizens will be able to trust their judges more.

MANDATE

The Presidency Committee of the International Association of Judges (IAJ) decided, in its meeting in Paris in 2017, that among its priorities there would have been helping national judiciaries in setting up associations of judges and that it would propose to the Central Council the setting up of a Working Group charged to identify criteria and procedures and to draft model statutes for different legal systems.

In its meeting in Santiago del Chile, that same year, the Central Council of the IAJ approved the triennial program of activities of the Presidency Committee for 2018-2020 and, in particular, the setting up of the Working Group charged to draft guidelines and a model statute in order to promote the establishment of associations of judges in countries where there were not. The working group consisted of:

Judge Mikael Sjöberg, Chairman, Vice President of the IAJ;

Judge Abdul K. Diop, African Group;

Judge Roland Kempfle, European Association of Judges;

Judge Carlos G. Salgado Schwartz, Ibero American Group;

Judge Tsogt Tsend, Asian North American Oceanian Group.

INTRODUCTION

This document intends to serve as a guideline for those who wish to establish judges' associations in a sovereign country. It describes possible purposes of an association of judges and the legal background of the right to freedom of association and actual steps that can lead to found an association. The guideline also offers a sample statute of an association of judges for those who wish to begin to establish their statute on this model statutes.

For the purposes of this guideline, an association is an independent, non-political, non-profit body consisting of judges on a voluntary basis in order to promote judicial independence. The very reason for judges' association should be to promote the importance of protecting judicial independence, to represent their interests and to promote their professional training.

I

LEGAL BACKGROUND

The right to establish an association is regarded as a universal right which is guaranteed by international law.

1. Freedom of Association

Freedom of association is a universal and fundamental right declared by the UN Declaration of Human Rights¹ and relevant international agreements². It is intertwined with freedom of expression and freedom of peaceful assembly.

In addition, the UN Human Rights Council adopted resolution 15/21 establishing the mandate of the

¹ Universal Declaration of Human Rights, G.A. Res. 217A, art. 20, UN Gen. Assem. (10 Dec. 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² International Covenant on Civil and Political Rights, G. A. Res. 2200A (XXI), art. 22. For the European Region, see also the Convention for the Protection of Human Rights and Fundamental Freedoms, art. 11, Eur. Ct. H.R. (1 Jun. 2010), https://www.echr.coe.int/Documents/Convention_ENG.pdf%23page=9; Charter of Fundamental Rights of the European Union, art. 52 (3), 2012 O.J. (C 326/02), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>; and Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, ¶ 9.3, Org. for Sec. and Co-operation in Eur. (1990), <https://www.osce.org/files/f/documents/9/c/14304.pdf>

Special Rapporteur³ on the rights of freedom of peaceful assembly and of association in 2010.

A significant legally binding international authority in Europe is the European Convention for the Protection of Human Rights and Fundamental Freedoms⁴ which in Article 11⁵ explicitly grants freedom of association. There is a very limited restriction of this right and it constrains the restriction for the exercise of freedom of association only on the grounds of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

The right to freedom of association is also guaranteed by Article 24 of the Arab Charter on Human Rights; however, the Charter does not set the same internationally recognized standards for restrictions, therefore the standards with global recognition are recommended to be used in the relevant countries. The ASEAN human rights declaration, Article 27 (2), includes recognition of the freedom to form

³ Special Rapporteur on the rights to freedom of peaceful assembly and of association.

https://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SR_FreedomAssemblyAssociationIndex.aspx

⁴ https://www.echr.coe.int/Documents/Convention_ENG.pdf

⁵ Art. 11. (Freedom of assembly and association), para 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

and join trade unions.⁶ The right to freedom of association of judges has also been extensively dealt with in 2020 by an *ad hoc* opinion issued by the Consultative Council of European Judges (CCJE)⁷

The freedom of association is not only guaranteed in general, but also applies to judges in particular.

The United Nations Basic Principles on the Independence of the Judiciary⁸ recognize that the members of the judiciary are entitled to freedom of expression, belief, association and assembly. Judges are free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence. Procedures for implementation of these rights were enacted specifically to guarantee that the United Nations Basic Principles on the

⁶ The Right to Freedom of Association, Published in April 2017 by Maina Kiai, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, <http://freeassembly.net/foaa-online>

⁷ CCJE Opinion No. 23 (2020), on "The role of associations of judges in supporting judicial independence", <https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

⁸ Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, Freedom of expression and association, art. 8 and 9.

Independence of the Judiciary are duly implemented by all members of the United Nations⁹.

Universal principles governing judicial activity were set forth by the International Association of Judges (IAJ) after extensive consultations with judges worldwide. In its Article 3-5 it states:

*The right of a judge to belong to a professional association must be recognized in order to permit the judges to be consulted, especially concerning the application of their statutes, ethical and otherwise, and the means of justice, and in order to permit them to defend their legitimate interests and their independence.*¹⁰

⁹ Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, Resolution 1989/60, 15th plenary meeting, 24 May 1989.

Procedure 8: ... with respect to the implementation of the Basic Principles ... [omission] In the preparation of those reports the SecretaryGeneral shall also enlist the cooperation of specialized agencies and the relevant intergovernmental organizations and nongovernmental organizations, in particular professional associations of judges and lawyers, in consultative status with the Economic and Social Council, and take into account the information provided by such agencies and organizations.

¹⁰ Article 3-5, the Universal Charter of the Judge, Adopted by the IAJ Central Council in Taiwan on November 17th, 1999. Updated

Likewise, the European Charter¹¹ on the statute for judges recognizes that the professional organizations (associations) contribute notably to the defence of those rights which are conferred on them by their statute, in particular in relation to authorities and bodies which are involved in decisions regarding them.

2. The Obligation of the State

The obligations of the State to promote and protect freedom of association under international law are twofold. On the one hand, there is a negative obligation not to interfere with rights. On the other hand, there is a positive obligation upon the State to facilitate the exercise of the right.¹² Hence, international standards confirm the right to found an association, to join an existing association and to have the association perform its function without any unlawful interference by the state.

in Santiago de Chile on November 14th, 2017. <https://www.iajuim.org/universal-charter-of-the-judge-2017/>

¹¹ Art. 1.7, European Charter on the statute for judges. <https://rm.coe.int/16807473ef>

¹² UN Human Rights Council, First Thematic Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, UN Doc. A/HRC/20/27, 21 May 2012, at para. 63; IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser/L/V/II Doc. 66, 31 December 2011, para. 157.

II FIRST STEPS

1. Possible Purposes

The first issue to consider thoroughly a very simple is **why** would you like to create an association of judges? An association of judges may serve different purposes. The subsequent steps in creating an association, such as drafting its statutes, very much rely on which purposes you would like your association to serve.

An association of judges may be established for the purpose of **promoting and protecting judicial independence and the rule of law**¹³. While historical developments around the world have certainly led to very different models of judiciaries, a judge can only fulfil that function properly if he or she is able to base his or her decisions only on the law without facing any external interference. Such interference may be personal, exerted by the government, by other authorities or the media, but may also be economic or social pressures, to decide a case in a particular way which would imperil the ability of a judge to exercise his or her function. An association can assist judges significantly in striving for judicial independence. Attacks on judicial independence can be more effectively responded to by an association rather than by individual judges, and

¹³ This is the main purpose of the International Association of Judges. For more information see chapter IV and <https://www.iaj-uim.org/>.

allows the individual judges to exercise restraint and maintain impartiality.

An association of judges can also serve as a valuable forum that enables judges to communicate with each other. All too often, judges work by themselves most of the time and do not have many opportunities to exchange views with colleagues from other courts from other parts of the country, from other jurisdictions, or from other branches of law. Enhancing the **communication of judges** among each other is in itself a value worth considering for the establishment of an association to provide a professional forum for joint communication.

Associations of judges play an important role in the promotion of **judicial ethics**. In several countries the experience shows that ethical standards can actively be developed and promoted by the association of judges. Associations are also important players within the global **fight against corruption**. If a judiciary is corrupt, the struggle of other institutions against corruption is weakened decisively. The advantage of an association is that it may be set up by and consist of outspokenly non-corrupt judges who work together to achieve changes of a corrupt system.

Being a forum for communication, an association of judges can also help to promote and organize **professional education**. This is especially important at places where such possibilities do not exist otherwise. While certainly legal professionals must meet high professional standards in most jurisdictions in order to be appointed as a judge, ongoing education is an indispensable element for providing quality justice to the citizens of a country. The right to ongoing

professional education is internationally regarded as an individual right of judges¹⁴. Associations of judges can play a significant role in either organising professional education themselves, or to exert pressure on the competent authorities to fund such education.

Individual judges heavily rely on certain requirements to conduct their judicial duties in a professional way, such as adequate **financial, personal and technical resources**, as well as resources related to judicial wellbeing. An association of judges can make shortcomings of such resources heard. This purpose does not make an association of judges a union¹⁵. The advantage of having an association of judges is, however, that an association can address needs and requirements to deliver quality justice in a more effective manner and thus takes this burden from the shoulders of the individual judge.

Another possible purpose of an association of judges may be to deliver the professional **opinion** of its members in the process of lawmaking. While this aspect may not be relevant to all countries or regions and not required to create an association of judges, it might be considered a valuable service to society to share the practical experiences of judges

¹⁴ See Article 4-2 of the Universal Charter of the Judge (1999/2017, <https://www.iaj-uim.org/universal-charter-of-the-judge-2017/>), or Article 6.3 of the Bangalore Principles of Judicial Conduct (2002, https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf).

¹⁵ In fact, many associations of judges see this as their responsibility.

in the process of lawmaking, which may be – but does not have to be – limited to the laws relevant to the status of judges.

Creating an association also provides judges with the opportunity to become part of an **international network of judges**. In a world in which people, countries and companies are connected across borders more than ever in history, and in which the judiciaries worldwide have to cooperate with each other more and more frequently, this aim is worth being considered. Furthermore, international networks provide judges with the ability to address key issues, such as threats to the independence of judges, jointly and with a voice heard on an international level. In moments where national judiciaries are facing crisis, relevant support may come from an international network of associations of judges. The largest network of associations of judges is the International Association of Judges (IAJ)¹⁶. It is worth considering joining the IAJ in order to be connected with their members.

2. Legal Requirements

After having considered the purposes for creating an association, it should be examined if there are any legal requirements for setting up an association in your country. In this context, the following issues should be taken into account:

¹⁶ See below chapter IV.

- Does the creation of an association need to be formally approved by a certain body or institution in your country?
- Does an association have to be formally registered in your country? If yes, which requirements would have to be fulfilled for registration? Which costs does it involve? How could the registration costs, if required, be funded?
- Does an association of judges need to have a certain legal form in your country?
- Does an association of judges have any duties regarding taxation in your country, or is it free from such duties as a non-profit organisation?

These are just some examples of the most common legal requirements. In some countries, there are hardly any legal requirements for the setup of an association. After all, you as judges are the most competent legal professionals to find out about the legal requirements in your country.

3. Considerations on Structure and Finances

After solving the legal issues, it is advisable to consider the general structure which your association should have. This structure may, but does not have to, depend on the structure of the judiciary of your country. These are some ideas what to consider in this context:

a. **Who should be able to become a member of the association?**

The more open for membership of judges from different levels and all branches of law an association is, the more it is representative of the judiciary of its country and the more its pronouncements are considered to reflect the opinion of the country's judiciary as a whole¹⁷.

In order to be able to finance your association it is important to make a realistic plan of how many judges might be attracted to become a member. A strategic plan of how to convince judges to become a member, and how many members could be expected to join during the first, the second and the third year, can help to plan the structure and the finances of your association.

Finally, it is helpful to consider if – and how – to cancel individual membership if certain criteria, such as payment of membership fees, are not fulfilled.

b. **How should the association be structured?**

This question depends on the intended size of the association, the amount of members expected, as well as on the structure of the judiciary of the country. For example, in a country with federal structures, a federal structure of the association could be advisable. The larger a country is and

¹⁷ On the other hand, there are judiciaries that suffer from the burden of corruption. In such countries it might be considered to prevent corrupt members of the judiciary from being a member of the association.

the more judges would be represented in the association, the more structured the association might have to be.

Key issues in this context would be:

- Who should be the president of the organization and how would she or he come into office?
- Who should run the daily business of the association – only the president of the association, or a board / a presidency committee?
- Should there be regional committees, e. g. in a large country or a country with federal structures?
- How often should there be elections for these positions? Who should be entitled to vote? In small associations, the members usually assemble about once a year. In very large associations, there might be too many members to assemble in person; in that case it might be more feasible that regional groups send delegates to the assembly. There are also countries that are simply too large for assembling regularly.

c. [How should the association be financed?](#)

Firstly, a realistic table of costs would have to be set up. It is very important to make a realistic budget of your association from the beginning. An association of judges should never have to make debts in order to fulfil its obligations. The size of the budget partly relies on possible legal duties, such as the requirement to pay registration fees or taxes. Beyond that, the size of the budget will depend chiefly on the intended size of the association, the purposes it wants to fulfil and the means it intends to use. When

planning the budget, also consider which costs might be involved with the organisation of meetings.

Secondly, after having estimated the realistic costs, consider which sources might be available to run your association. Membership fees usually are the main source of income of an association of judges. Some associations gain additional income from publications or training of non-members. Other sources of income should be used with care. Where external sources contribute to the finances of the association, utmost care must be taken that the independence of the association is not infringed upon.

4. Practical Issues

Among all the very important thoughts, there are also some very practical issues that should not be forgotten:

- Each association should have a contact address (postal and electronic), and at least one representative that may be contacted personally. These contact details should be accessible to all its members, and ideally also on the internet.
- It might be helpful to create a simple website where judges can inform themselves about the association, as well as find contact data to receive more information. A website offering good information about the association can help significantly in attracting new members and can be used to interact with existing members.

- Consider thoroughly if your association wants to be active on social media. In some regions that is usual and may be very helpful. However, if using social media, a professional appearance that takes into account the role and obligations of judges, is key.

5. Statutes

After having reflected upon all these questions, you will have enough ideas that could form the preliminary statutes of your association.

A group of founders can make a first draft. Such preliminary statutes could be the basis of the foundation of the association. The preliminary statutes should already foresee a process for changes or amendments. It is recommended to put these preliminary statutes to discussion among the members some time after the association was founded, e. g. on one of the first assemblies. The time that has passed since founding the association sometimes helps to see whether or not there is a need to change some of the preliminary statutes, or whether to keep them. When there is a version of the statutes that the members generally agree with, there could be a formal vote on the change of statutes, depending on which process has been foreseen in the preliminary version of the statutes. This is helpful in terms of acceptance of the statutes among the members.

III

THE INTERNATIONAL ASSOCIATION OF JUDGES (IAJ)

The **International Association of Judges (IAJ)** is the largest networks of judges' associations worldwide. At the moment (2021), associations or representative groups of judges from 94 countries are members of the IAJ. The International Association of Judges is open to representative associations of judges from all regions of the world. It does not have any political or trade-union character.

The objects of the IAJ are as follows¹⁸:

1. To safeguard the independence of the judicial authority, as an essential requirement of the judicial function and guarantee of human rights and freedom.
2. To safeguard the constitutional and moral standing of the judicial authority.
3. To increase and perfect the knowledge and the understanding of Judges by putting them in touch with Judges of other countries, and by enabling them to become familiar with the nature and functioning of foreign organizations, with foreign laws and, in particular, with how those laws operate in practice.

¹⁸ <https://www.iaj-uim.org/mission-and-values/>

4. To study together judicial problems, whether these are of regional, national or universal interest, and to arrive at better solutions to them.

If you consider applying for membership at the IAJ, please see its website for further information on the requirements for and procedures of permission¹⁹.

¹⁹ <https://www.iaj-uim.org/admission/>

IV MODEL STATUTES

Just as different the associations of judges around the world are, so are their statutes. Therefore, there is not one model that meets all requirements of all associations of judges around the world. However, some key elements might be worth considering in general. The following chapter makes such suggestions based on the statutes of different associations of judges that are members of the IAJ.

Rules/statutes of the ...Association of Judges

General provisions

Article 1.

The (*insert name of the Association*) shall be an association of (*insert nationality*) judges.

The Association shall be a voluntary, non-political and non-profit organization.

The Association is independent in its activity and politically neutral.

Aims and tasks of the association

Article 2.

The aim and task of the Association shall be in particular [*the following are examples*]:

FOUNDING AN

- to promote and protect judicial independence and the rule of law;
- to protect the reputation of the judiciary;
- to promote judicial ethics;
- to enhance the communication of judges among each other;
- to promote and organize professional education of judges;
- to address the needs and requirements of judges where necessary;
- to become part of an international network of judges.

Membership

Article 3

Anyone who is appointed as judge (*insert country*) can be member of the Association. According to the Board's resolution, judges appointed to international bodies can be members.

Article 4

The rights of members of the Association shall in particular be:

- To elect and be elected to the official bodies of the Association;
- To cooperate in the work of the official bodies of the Association;
- To be acquainted with the activity of the Association and with resolutions and other decisions of its official bodies

Article 5

Duties of a member of the Association shall be:

- To adhere the Statutes of the Association.
- To abide by decisions adopted by the official bodies of the Association.
- To safeguard the reputation of the Association.
- To pay the membership fee regularly.

Article 6

Membership of the association shall cease with:

- Withdrawal.
- Exclusion.

A member may be excluded from membership:

- If the member does not pay membership fee for () month/year in succession.
- If the member behaves in conflict with the rules of the association and thus damages the reputation of the association.

The Decision about the exclusion of a member is taken by the Board/ The General Assembly.

Structure and management of the Association

Article 7

The official bodies of the Association are *[the following are examples]*:

- The General Assembly
- The Board of the Association
- The President of the Association
- (The Treasurer of the Association)

- (Other bodies)

Article 8

The highest body of the Association is the General Assembly, which consists of all members of the Association.

The General Assembly is called once a year/every () year.

Extraordinary General Assembly can be called on the initiative of the President or on the request of () part of all members.

The time, place and agenda are determined by the Board.

The General Assembly has authority of decision if () of its members take part in it.

The General assembly shall adopt decisions made by a majority of votes of members present.

The General Assembly decide normally by open voting, but may also decide hold a secret ballot.

The General Assembly may be hold electronically/ on video.

Article 9

The General Assembly shall decide on fundamental questions of the association and in particular it shall:

- Adopt the rules of the association and decide on possible changes.
- Adopt a code of judicial ethics.
- Elect members of the Board.
- Elect the President of the Association.
- Elect other Bodies (if other bodies).
- Make resolutions.
- Decide on other questions in connection with the functioning of the Association.
- Decide the membership fee.

- Decide on termination of the Association.

Article 10

The members shall be invited to the General Assembly by a letter from the Board, together with an agenda. The invitation can be sent electronically.

There must be at least () weeks notice for the meeting

Article 11

The agenda for the General Assembly shall contain at least the following points:

- The President's report.
- The Treasurer shall submit audited accounts.
- Determination of the membership fee.
- Composition of the board.
- Election of the President.
- Composition of other bodies.
- Miscellaneous.

The Board

Article 12

The Board is the managing authority of the Association that manages and coordinates the work of the Association between the General Assemblies.

The Board is called () by the President.

Article 13

The Board shall be elected for a term of () year and consist of a President and () other members.

The Board elects its own Vice President, Treasurer and Secretary.

The Board is a quorum when at least () members of the Board are present.

Article 14

The Board

- organizes the fulfillment of the decisions of the General Assembly.
- organizes working groups for solving some specific questions.
- organizes activities of the Association.
- discusses draft laws and other draft normative acts.

The Board has the right to take any decision concerning the Association except for those which are in the competence of the General Assembly.

The President

Article 14

The term of the President of the Association, the Treasurer and the Board shall be () years

Article 15

The President of the Association shall appear on behalf of and represent the Association.

The President permanently leads the work of the Association and the Board.

The President shall ensure that the work of the Association is done in accordance with the rules, shall call and chair the

board.

Termination of the Association

Article 16

The Association shall be terminated if the General Assembly adopts a resolution on termination of the Association.

Transitional provisions

Article 17

This statute shall enter into force...

APPENDIX

Statutes in force of IAJ Members:

France - *Union Syndicale des Magistrats* (unofficial translation)

Italy - *Associazione Nazionale Magistrati* (unofficial translation)

New Zealand - *Te Hunga Kaiwhakawā o Aotearoa*

Portugal - *Associação Sindical dos Juizes Portugueses* (unofficial translation)

South Africa - *Judicial Officers' Association of South Africa*

United States of America - *Federal Judges' Association*

CCJE Opinion No. 23 (2020) - *The role of associations of judges in supporting judicial independence*

FRANCE

Union Syndicale des Magistrats

STATUTES

SECTION 1 - GENERAL PROVISIONS

Article 1 - Constitution - Seat - Duration

A professional union called "Union syndicale des Magistrats", whose acronym is "USM", is hereby constituted between the members of the judiciary as defined in Article 1 of Ordinance No. 58-1270 of 22 December 1958 on the organic law relating to the status of the judiciary, who adhere to the present statutes.

Its headquarters shall be located in Paris, IXth arrondissement, 18 rue de la Grange Batelière. It may be transferred to another location by decision of the national council.

Its duration is unlimited.

Article 2 - Purpose

This union is autonomous, independent and refrains from any political commitment.

Its purpose is:

- a) to ensure the independence of the judiciary, an essential guarantee of the rights and freedoms of citizens
- b) to defend the moral and material interests of judges and judicial auditors, particularly with regard to their recruitment, training and professional development
- c) to contribute to the progress of the law and judicial institutions, in order to promote accessible, efficient,

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respected and humane justice.

Article 3 - Affiliation

Any affiliation to a national or international organization shall be decided by the General Assembly, on the proposal of the National Council ruling by a two-thirds majority of its members present or represented.

SECTION 2 – MEMBERSHIP

Article 4 - Membership

Any professional magistrate of the judiciary, regardless of his or her statutory position, whether in active service, on secondment, on leave of absence, retired, court auditor, candidate from the complementary competitive examinations undergoing probationary or complementary training, candidate for direct integration as a magistrate undergoing probationary or preliminary training, land registry judge, temporary magistrate, adviser or advocate-general at the Cassation Court in extraordinary service, may join the Union, unless the National Council refuses to give its approval.

Membership of the USM is exclusive of membership in any other union of magistrates of the judicial order.

Article 5 - Rights and obligations

The member undertakes to respect the statutes as well as the internal regulations and the charters adopted by the national council.

He/she shall pay an annual membership fee due as from January 1st, for the calendar year of his/her membership.

Membership during the course of the year does not entitle the member to any prorata temporis reduction. The amount of the membership fee shall be fixed annually by the National Council. It shall be retained by the union even in the event of loss of membership.

Members shall have the right to be informed about the activities of the union, to be advised and to participate in collective decisions.

Article 6 - Loss of membership

Membership shall be lost:

- a) by resignation, notified by any means;
- b) by striking off automatically, in the event of membership of another union of magistrates in the judicial system;
- c) if the membership fee is not paid by March 1st of the year following the last membership fee;
- d) by expulsion pronounced by the National Council by a two-thirds majority of its members, unless recourse is made to the General Assembly, in the event of serious or repeated infringement of the material or moral interests of the union or in the event of serious or repeated failure to fulfil the obligations arising from the statutes and internal rules. The complaints against the person concerned shall be sent to him/her by registered letter with acknowledgement of receipt at least fifteen days before the meeting of the National Council. The person concerned may provide written explanations and be heard by the National Council. The reasoned decision shall be notified to him/her by registered letter with acknowledgement of receipt.

Article 7 - Provisional suspension

In an emergency, the Executive Committee, by a two-thirds majority, may provisionally suspend any member in the event of serious or repeated infringement of the material or moral interests of the union or in the event of serious or repeated failure to comply with the obligations arising from the Constitution and the Rules of Procedure. The decision shall be notified to the person concerned by registered letter with acknowledgement of receipt. It shall entail the suspension of the member's rights at the latest until the next useful meeting of the National Council.

SECTION 3 – PRESIDENT

Article 8 - Election

The President of the Union shall be elected by the members present or represented at the General Assembly by a first-past-the-post vote. In the event of a tie, lots shall be drawn. The procedures for declaring candidacies for the presidency shall be laid down in the rules of procedure.

Article 9 - Term of office

The term of office of the President shall be two years and shall be extended, as necessary, until the first useful General Assembly.

Article 10 - Functions

The President shall represent the Union. With the authorization of the National Council, he may take legal action. In the event of legal representation, he may be

replaced only by a proxy acting with a special power of attorney.

He shall set the agenda of the National Council, preside over it and implement its decisions.

If he is unable to attend, he shall be replaced by the Secretary General, secondarily by the Vice President and eventually by any other member of the Board.

In the event of loss of membership, vacancy or permanent impossibility of exercising the office, as determined by the National Council, the President shall be replaced by the Secretary General until the next elective General Assembly.

Article 11 - Honorary President

At the end of his term of office and unless he refuses, the President becomes Honorary President. He shall retain this status for as long as he is a member of the union.

The status of Honorary President shall be lost by removal from office by the National Council by a two-thirds majority of its members, under the conditions laid down in Article 6 d).

SECTION 4 - NATIONAL COUNCIL

Article 12 - Composition

The National Council shall be composed of the President of USM, elected members representing all members and the judiciary, and ex-officio members.

The elected members are designated by the members present or represented at the General Assembly, in a single college, by uninominal ballot. There are twenty-six (26) of them, of which at least eight (8) members are elected from among

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second grade magistrates and judicial auditors and one (1) member is elected from among honorary magistrates, unless there are insufficient candidates. They have the right to vote. The ex-officio members are the honorary presidents, the delegate of the section of judicial auditors, the persons in charge of missions designated in accordance with Article 5-1 of the Rules of Procedure, as well as the members elected on behalf of the USM to the High Council of the Judiciary and to the promotion Commission. They shall have an advisory vote.

Article 13 - Term of office

The term of office of the elected members shall be two years and shall be extended, if necessary, until the first useful General Assembly. Renewal shall be in full.

Members may be dismissed by decision of the National Council by a two-thirds majority, under the conditions laid down in Article 6 d).

Article 14 - Duties

The National Council shall have the task of looking after the moral and material interests of the union.

It shall implement the decisions of the General Assembly. It shall set the main guidelines and decide on the actions to be taken. It shall convene ordinary and extraordinary general meetings, for which it shall set the agenda.

Article 15 - Operation

The Council shall be convened by the President of the USM at least four times a year. It may also be convened whenever

the interests of the Union so require or at the request of the majority of its elected members.

The National Council shall only deliberate validly when the majority of its members with voting rights are present or represented. If the quorum is not attained, a new meeting of the National Council shall be fixed, at least eight days apart, at which it shall deliberate without a quorum being required. Decisions of the National Council shall, save in exceptional cases, be taken by a simple majority of those present or represented, with the President having the casting vote in the event of a tie.

The members present may not have more than two mandates for the deliberations of the National Council.

In case of urgency, the President may request the vote of the elected members of the National Council by electronic means. He/she shall set a time limit within which the members of the National Council must take a decision.

The operating procedures of the National Council shall be specified in the Rules of Procedure.

SECTION 5 - NATIONAL BOARD

Article 16 - Composition

The national board shall be composed of:

- the President,
- a vice-President
- a secretary general,
- a deputy secretary general,
- a national treasurer,
- a deputy national treasurer,
- a national secretary, editor-in-chief of the union's press

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organ,

- two national secretaries.

The members of the national board, apart from the president, shall be elected by the national council from among its elected members for a period of two years, which shall be extended, if necessary, until the first useful general meeting. In the event of a vacancy, the member of the board shall be elected under the same conditions for the remaining period. At least three members of the national board must belong to three courts of appeal other than those of Paris and Versailles, unless they fail to apply.

Article 17 - Duties

The function of the national board shall be to look after the moral and material interests of the union between meetings of the national council and to carry out all acts of administration, reporting to the national council.

In the event of urgency and the impossibility of a meeting of the national council or of voting by electronic means, the powers of the latter shall be exercised by the national board under the same conditions as in the preceding paragraph.

SECTION 6 - REGIONAL UNIONS AND SECTIONS

Article 18 - Regional Unions

In each court of appeal jurisdiction, members in office shall form a regional union.

Magistrates working for the Ministry of Justice, magistrates on secondment and magistrates on secondment shall form a regional union, to which the judicial auditors shall belong.

Magistrates working at the Cassation Court are attached to the Paris regional union.

Magistrates of the Land Registry are attached to the regional union of their administrative residence. Honorary magistrates shall be attached to the regional association of their place of residence or of the court in which they exercise or have exercised their last function.

Each regional union shall elect a delegate, a treasurer and possibly a deputy delegate for a period of two years, in accordance with the procedures laid down in the internal rules. The election shall take place by majority vote in a single ballot. Each mandate is renewable.

Article 19 - sections

In each tribunal, members may form a section which shall elect for two years, by a single-ballot majority vote, a section delegate and possibly a deputy section delegate, in accordance with the procedures laid down in the rules of procedure.

Article 20 - Justice auditors' section

Each class of auditors shall form a section, whose delegate, elected in accordance with the procedures laid down by the internal regulations, from among the members in a single ballot, shall be an ex-officio member of the national council. Candidates from the complementary competitions as well as candidates for integration as magistrates, if they do not themselves constitute a section, are attached to the section of the auditors.

SECTION 7 - GENERAL ASSEMBLY

Article 21 - Composition

The members of the union who have duly paid their membership fees shall meet in a general assembly, otherwise known as “the congress”, once a year.

Article 22 - Election of the President and members of the National Council

The ordinary General Assembly shall elect, every two years, by a simple majority of its members present or represented, by secret ballot, the members of the National Council and the President of the Union. In any event, the elective meeting must be held no later than 31 December of the year concerned.

The voting procedures shall be laid down in the internal regulations.

Article 23 - Powers

The General Assembly:

- deliberate on the proposals of the National Council,
- determine the union policy,
- hear and approve the annual accounts,
- ratifies the internal regulations adopted by the National Council,
- deliberates on all matters placed on the agenda by the National Council.

It shall take its decisions by a simple majority of its members present or represented. Voting shall be secret at the request of one tenth of the members present. Voting by proxy shall

be permitted under the conditions laid down in the rules of procedure.

Article 24 - Convening

The date, place and agenda of the General Assembly shall be decided by the National Council. The agenda shall be brought to the attention of the members, by any means, at least fifteen days before the date fixed.

Article 25 - Extraordinary General Assembly

The Extraordinary General Assembly shall be competent to amend the Statutes.

It shall be convened under the same conditions as the Ordinary General Meeting.

It shall also meet by right at the request of half of the members or half of the regional delegates.

The special convocation must include a copy of the agenda as well as the projects adopted by the National Council.

It shall decide by a two-thirds majority of the members present or represented.

Article 26 - Operation

The national office shall act as the office of the general assemblies.

The deliberations of the General Meetings shall be recorded in the minutes drawn up and signed by the Secretary General and endorsed by the President.

All decisions of General Meetings convened and deliberating in accordance with the Constitution shall be binding on all members of the union.

SECTION 8 – TREASURY

Article 27 - National Treasurer

The national treasurer shall carry out the expenditure ordered by the president.

He/she shall collect the membership fees and keep the accounts up to date. He shall open and operate the union's bank accounts. He/she shall collect and make payments, with the exception of international payments reserved for the President alone.

The president, the national treasurer and the deputy national treasurer shall have the right to sign the accounts of the USM.

In case of impediment, the national treasurer shall be substituted by the president or the deputy national treasurer.

Article 28 - Union assets

The assets of the union shall include in particular:

- membership fees and subscriptions
- public and private subsidies
- donations and legacies
- interest on invested sums.

Article 29 - Accounting

Accounts shall be kept showing annually an operating account, the result for the financial year and a balance sheet. The annual accounts of the Union shall be closed at the latest eight days before the General Assembly.

Article 30 - Treasurer of regional unions

The treasurer of each regional union shall keep separate

accounts which shall form a special chapter of the overall accounts of the union.

At the beginning of each calendar year, and before 31 March, the regional treasurer shall send a statement of the accounts of the regional union for the previous financial year.

The assets of each regional union are constituted by the deduction made from the amount of the membership fees (excluding subscriptions and fees paid by the court auditors). The rate of this deduction is fixed by the national council on the report of the national treasurer or the deputy national treasurer.

The president, the national treasurer, the deputy national treasurer and the regional treasurer shall have signing authority over the accounts of the regional unions, in accordance with the procedures laid down by the internal regulations.

Article 31 - Dissolution of the union

In the event of the dissolution of the union, for whatever reason, its remaining assets shall be devolved in accordance with the decisions taken at an extraordinary general meeting.

SECTION 9 - MISCELLANEOUS PROVISIONS

Article 32 - Jurisdiction

Disputes relating to the application of these Articles of Association shall be referred to the court of the registered office.

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Article 33 - Internal regulations

The rules of procedure shall specify the methods of application of the Statutes.

They shall be adopted and may be amended by the National Council by a two-thirds majority of its members with voting rights present or represented, subject to approval by the Ordinary General Assembly.

RULES OF PROCEDURE

I. – ORGANISATION AND FUNCTIONING OF REGIONAL UNIONS AND SECTIONS

Article 1-1

Regional unions elect their representatives under the conditions laid down in article 18 of the statutes in accordance with the procedures defined in their rules of procedure, failing which they shall vote by secret ballot with the option of a mandate, up to a limit of 5 per person, or a postal vote.

The sections elect their representatives under the same conditions.

The counting of votes is carried out under the responsibility of the regional union representatives in place. Scrutineers are admitted on their request to participate in the counting of votes

Within 15 days, the regional delegate is required to transmit to the Secretary General the minutes of the election and to inform the members of the detailed results of the ballot on the national discussion list. The final result of the ballot is brought to the attention of the heads of court.

Article 1-2

The regional delegate is responsible for leading and coordinating the activities of the sections.

To that end, he/she shall bring them together at least once a year. The meeting is held as of right at the request of half of the members who have paid their membership fees.

He/she ensures that the positions of the National Board and the National Council, as well as the enforcement of their decisions, are communicated to the members. He/she is assisted in his/her task by his deputy, by the Regional Treasurer, as well as by Section Delegates.

Article 1-3

The status of regional delegate, deputy regional delegate, regional treasurer and section delegate is lost by resignation (notified to the President by any means), termination of service as member of the judiciary, deprivation of the functions of local representation stated under the conditions defined in article 1-4, loss of membership or change of regional union or judicial district (for section delegates).

In the event of a vacancy in the post of regional delegate, he/she shall be immediately replaced by his/her deputy or, failing that, by the regional treasurer.

Elections shall be held within three months, at the initiative of the regional delegate in the event of a vacancy of the position of section delegate, deputy regional delegate or regional treasurer, and at the request of the temporary regional delegate in the event of a vacancy in the post of regional delegate. After this period, the national board may appoint any member in the regional union to organise the elections.

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In case of a vacancy in the position of regional treasurer and until the next elections, the regional delegate shall ensure the administrative management, subject to the provisions of Article 30 of the Statutes.

Article 1-4

The National Council may, by a two-thirds majority of its members, and without recourse to the General Assembly, deprive a regional delegate, a deputy regional delegate, a regional treasurer or a section delegate, of his/her local representative functions for a period of six months to two years, in the event of damage to the material or moral interests of the union or in the event of failure to comply with the obligations arising from the statutes and the internal regulations. The complaints against the person concerned shall be sent to him/her by registered letter with acknowledgment of receipt at least fifteen days before the national council meeting. The person concerned may provide written explanations and be heard by the National Council. The motivated decision shall be notified to him/her by registered letter with acknowledgment of receipt.

Article 1-5

In case of emergency, the Board, by a two-thirds majority, may suspend, as a precautionary measure, any regional delegate, deputy regional delegate, regional treasurer and section delegate who has harmed the material or moral interests of the USM or in case of failure to fulfil the obligations arising from the statutes and the internal regulations. The decision shall be notified to the person concerned by registered letter with acknowledgement of

receipt. It shall entail the suspension of the functions of local representation at the latest until the next useful meeting of the National Council.

Article 1-6

At any time, the members of a regional union may ask the regional delegate, after a vote expressed by an absolute majority of the members, to elect, after a dissolution, a new regional office. The elections must then take place within three months as from the announcement of the results of the initial vote.

Article 1-7

In elections to regional unions and sections, in the event of a tie between two candidates, a random draw shall be made.

Article 1-8

Any dispute as to the validity of the elections of the delegates of sections or of the delegates, deputy delegates, treasurers of the regional union, shall fall within the competence of the national board which may, if necessary, arrange for new elections to be held within a maximum period of three months from the notification, by any means enabling the date of receipt to be determined, of the dispute to the headquarters of the USM.

Article 1-9

The regional unions may draw up their own rules of procedures, in compliance with the statutes, the rules of procedure and the charters of the USM, in order to organise more frequent meetings than those provided for by art. 1-2

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of the rules of procedure, to organise committees and to designate officials.

Whatever the rules of procedure adopted by the regional unions, the assembly of sections of the regional union must be convened within fifteen days on request of the majority of the members of the regional union.

The internal regulation adopted shall be communicated to the national board within fifteen days.

Article 1-10

Each section may draw up its own rules of procedure and determine the frequency of its meetings, organize committees and appoint officials.

Article 1-11

The regional delegate, in addition to the powers conferred on him/her by article 1-2 of the internal regulations, may initiate actions with members which he/she considers appropriate.

The regional delegate exercises his/her powers in compliance with the decisions adopted by the national board the national council and the general assembly.

II. – FUNCTIONING OF THE NATIONAL COUNCIL

Article 2-1

By standing for election to the national council, every candidate undertakes to inform as soon as possible the members of the regional union to which he/she belongs, if elected.

Article 2-2

Members of the national council responsible for the permanent information of the leaders of regional unions not represented in the national council shall be appointed at the first meeting of the newly elected national council.

Article 2-3

The councillors thus appointed have the duty to inform as soon as possible all the regional unions with which they are to liaise.

Information may be provided by any means. A copy of these information notes shall be sent to the national board to enable it to ensure that the liaison is working properly.

Article 2-4

Once a year, the national council shall hold an enlarged meeting with all regional delegates, deputy delegates and treasurers of all regional unions.

Section delegates may attend these enlarged meetings.

The section delegate who is unable to attend may appoint the deputy section delegate.

Article 2-5

Once a year, the National Council shall hold an enlarged meeting of regional delegates only.

The regional delegate who is unable to attend may appoint the deputy regional delegate, otherwise, failing that, he may appoint the regional treasurer.

Article 2-6

For the preparation of elections to the High Council of the Judiciary (HCJ), the regional offices shall draw up lists of candidates for the college of judges and for the college of public prosecutors. The national board shall check and validate these lists.

Article 2-7

At least three months before the date of the ballot for the election of the members of the college of judges and prosecutors provided for in article 3 of fundamental law No. 94-100 of 5 February 1994 on the High Council of the Judiciary, the President shall issue a call for candidates for the posts of member of the High Council of the Judiciary on the national discussion list.

Members of the USM who are candidates for membership of the HCJ shall send their candidatures to the President by post or e-mail within 45 calendar days of the call for candidatures.

The candidates shall be heard by the national council and beforehand by the national board, if considered useful.

The National Council shall invest the candidates by secret ballot. For the panel of judges and prosecutors, the National Council shall determine the order of presentation within the lists, by successive votes, name by name, until all the positions are filled.

If a candidate withdraws or is prevented from standing, the Board shall set the timetable and procedures for his or her replacement. The National Council shall invest the new candidate.

Article 2-8

For the preparation of the elections to the promotion committee, the regional boards shall draw up the lists of candidates to the college of judges and prosecutors provided for in article 13-1 of the ordinance of 22 December 1958 on the status of the magistracy, and the national board checks and validate these lists.

Article 2-9

At least three months before the date of the ballot for the election of the members of the college of judges and prosecutors provided for by article 13-1 of the Order of 22 December 1958 on the status of the judiciary, the president shall issue a call for candidates for the positions of member of the promotion committee on the national discussion list. USM members who are candidates for membership of the promotion committee shall send their applications to the President by post or email within 45 days from the call for applications.

The national board shall present all the candidates to the national council and shall draw up the list of candidates for the promotion committee, taking into account, in particular, the functions performed and the places of employment of the candidates. The final list of candidates for the promotion committee in the name of USM shall be adopted by the National Council.

If a candidate withdraws or is unable to attend, the board shall set the timetable and the procedures for his/her replacement. The national council shall invest the new candidate.

III. - GENERAL ASSEMBLY

Article 3-1

At least one month before the date of the elective General Assembly, the President shall issue a call for candidates for the office of President of the USM.

The candidatures for the presidency must be declared to the national board at the latest on the Friday before the opening day of the General Assembly. After this deadline, any act or submission of candidacy is inadmissible.

At the latest on the Monday preceding the opening date of the General Assembly, the President shall send to the national discussion the list of candidates for the presidency of the USM, presented in alphabetical order, stating their identity, their place of practice and their function.

Each candidate must indicate the following information:

- surname and first name;
 - date of birth;
 - function;
 - rank;
 - jurisdiction and court of appeal to which he/she is attached, failing which, the regional union to which he/she is attached.
- Ballot papers reproducing the list thus presented shall be prepared in order to serve as a material basis for the vote.

Article 3-2

At least one month before the date of the elective General Assembly, the President shall issue a call for candidatures for membership of the national council.

Applications for membership of the National Council must be made to the National board no later than the Friday before the opening day of the General Assembly.

At the latest on the Monday preceding the opening date of the General Assembly, the President shall send to the national discussion list the list of members who are already standing for election to the national council, presented in alphabetical order, stating their identity, their place of assignment and their function.

If the number of honorary magistrates declared as candidates on the Friday preceding the General Assembly is less than one (1), applications from honorary magistrates shall remain admissible beyond that date and until 5 p.m. on the eve of the vote

If the number of second grade magistrates or judicial auditors declared as candidates on the Friday preceding the General Assembly is less than ten (10), applications from second grade magistrates shall remain admissible beyond that date and until the day before the ballot at 5 p.m.

If the number of other magistrates declared as candidates on the Friday preceding the General Assembly is less than twenty-four (24), the applications of other magistrates shall remain admissible beyond that date and until the day before the ballot at 5 p.m.

Each candidate must provide the following information:

- surname and first name;
- date of birth;
- function;
- rank;
- jurisdiction and attached court of appeal, failing which, the regional Union.

The day before the ballot, before the meeting is adjourned, the president in office shall draw up the list of candidates for the national council, presented in alphabetical order, mentioning their identity, their place of practice and their function and shall immediately bring it to the attention of the members of the General Assembly.

Ballot papers reproducing the list presented shall be prepared to serve as a material basis for the vote.

Article 3-3

All votes at the General Assembly shall be cast by the members present and by the proxies of absent members.

Members who are up to date with their membership fees on the day before the vote are eligible to vote.

Article 3-4

Voting by proxy shall be authorized within the limit of five proxies per delegate present, after verification of their regularity.

The mandate, written, dated and signed by the mandator shall mention the surname, first name, function and residence of the proxy holder and of the mandator.

The mandate is valid for the entire duration of a session and for any extraordinary assembly included in the session.

The mandator and the proxy holder must belong to the same regional union. As an exception, the judicial auditors and members of the regional unions of the overseas departments and regions and the overseas collectivities, New Caledonia and Saint-Pierre and Miquelon may give a mandate to any member, within the limit mentioned in paragraph 1.

Article 3-5

A polling committee shall be set up at General Meetings. It shall be composed of 9 members: the President, the Secretary General, the outgoing honorary magistrate member of the National Council, the three oldest and three youngest regional delegates present, whether or not they are candidates themselves.

Disputes relating to the submission of candidacies, the determination of the list of candidates and more generally, the voting operations, shall be referred to the polling committee.

Article 3-6

At any time, the members of USM may call a General Assembly under the conditions laid down 25 of the Statutes and request new elections to be held.

The elections must then take place within three months of the announcement of the results of the vote.

Article 3-7

In the case of elections of the members of the National Council, in case of a tie between two candidates a random draw shall be made.

Article 3-8

In case of exceptional circumstances making it impossible for members to travel to all or part of the territory or limiting the right to gather for the General Assembly, the National Council may, upon proposal of the President, by a majority of two-thirds of the elected members present or represented:

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* either derogate from the limit of five mandates per delegate present provided for in article 3-4 paragraph 1 of the internal regulations, up to a maximum of ten mandates, and from the rule that the mandator and the proxy must belong to the same regional union provided for in the last paragraph of article 3-4 of the internal regulation;

* or decide that the ballots shall be held remotely for all members. In this case, as an exception to the present internal regulations:

- the National Council shall lay down the procedures for the material organization of ballots and the conditions for ensuring the confidentiality of the vote;
- the candidacies must be declared to the national board at the latest 15 days before the General Assembly, without derogation in case of insufficient candidacies;
- the list of candidates for the presidency of the USM and the list of candidates for the national council be sent by the President to the national discussion list at the latest the day after the closing date for nominations;
- the ballots will be closed at midnight on the day before the elective General Assembly;
- voting by proxy will not be allowed;
- the National Council may determine a composition of the polling committee in derogation of the rules laid down in article 3-5 or decide to meet by electronic means.

IV. STUDY COMMISSIONS

Article 4-1

The National Council or the National Board (the latter subject to ratification by the former) may set up commissions

to carry out a specific task or study and, if necessary, choose their members from among the members not elected to the Council.

Similarly, any category of magistrate experiencing specific difficulties may set up a study committee for this purpose, provided that the request is presented at a National Council meeting and that the said committee includes a member appointed by the National Council.

Article 4-2

The study groups shall carry out their work at the latest until the ordinary General Assembly and may be reappointed later, upon application to the new National Council.

These committees have no decision-making powers. They shall submit proposals to the National Board, the National Council or the General Assembly.

Article 4-3

The commissions, whose report shall be submitted to the General Assembly for consideration, shall each:

- make known and publish in the form of a preliminary report the element of their work as well as the various conclusions that may be drawn from it;
- communicate these pre-reports to the headquarters of the union, sufficiently in advance of the date of the General Assembly to allow for dissemination and prior discussion at the level of the regional unions.

V. MISCELLANEOUS PROVISIONS

Article 5-1 – Officers

The President may appoint representatives from among the members who have paid their membership fees, for a fixed period and at the most until the next elective General Assembly. The National board may oppose by an absolute majority of its members.

Article 5-2 - Discharges from duty

The President, the members of the National Council and the officers of the regional unions, as well as the persons in charge of missions, may be granted leave from work, to work for the Union.

Leave from work for union reasons shall be requested from the Ministry of Justice by the President, on the advice of the national board, which may oppose it by an absolute majority of its members.

Article 5-3 - Protection of personal data

The National Council shall adopt a charter designed to protect the personal data that USM processes or subcontracts, in compliance with the provisions of law n° 78-17 of 6 January 1978 on information technology, files and freedoms.

The national council has also competence to appoint the personal data protection officer provided for in the same text.

Article 5-4- Websites and discussion lists

The USM shall provide itself with one or more online public

communication services (websites) as well as electronic communication services, in particular in the form of discussion lists intended for all or part of its members.

These services shall be administered by an administrator appointed by the national council.

The administrator shall carry out his activity under the control of the President.

Membership of the discussion lists and communication of these lists shall be governed by a charter of conduct adopted by the National Council

The discussion list opened to all members is subject to an *a posteriori* moderation entrusted to one or more moderators whose appointment and intervention procedures are set out by the said code of conduct.

ITALY
Associazione Nazionale Magistrati

STATUTE

With amendments approved on September 14th, 2019, by
the Assembly

CHAPTER 1

NAME – AIMS – ASSETS of the ASSOCIATION

Article 1 – Establishment of the Association

The National Association of Italian Judges is hereby established, with its registered office in Rome.

Article 2 – Aims

The aims of the Association shall be the following:

- 1) to endeavour so that the nature, tasks and powers of the judicial authority – compared to the other State authorities - are defined and ensured pursuant to Constitutional rules.
- 2) to enforce a judicial system which achieves the independent organisation of the judiciary in compliance with the requirements of the rule of law in a democratic system;
- 3) to protect judges' moral and economic interest and prestige, as well as respect the judicial function;
- 4) to promote respect for the principle of gender equality among judges in all associations and, in particular, to ensure a balanced presence of men and women in the central, district and local governing bodies of the Association, as well as in any other activity of the

Association and whenever the Association is called upon to appoint its representatives;

- 5) to foster cultural, welfare and social security initiatives;
- 6) to contribute with the judiciary's knowledge and experience to the working out of legislative reforms, with specific reference to the judicial system;
- 7) to see to the publication of a review as well as the management of the A.N.M. mailing list and any social networks.

The Association shall have no political nature.

Article 3 – Assets

The Association's assets shall consist of its members' fees and contributions and any possible bequests and donations.

CHAPTER II MEMBERS

Article 4 – Classes of members

Members may be Honorary Members, Full Members and Associate Members.

Honorary Members are those who have been granted said status unanimously by the Central Steering Board for having played a particularly significant role in the activities performed to reach the aims of the Association.

Full Members are those in active employment, including recorders and hearing officers.

Associate Members are retired and honorary judges.

Article 5 – Members' rights and duties

Full Members shall be entitled to vote for and shall be

eligible to stand for election to all the Association posts and offices.

All Members shall be entitled to vote in the Congresses, as well as in the Conferences and workshops organised by the Association.

Full members and Associate Members shall pay:

- a) a registration fee;
- b) a yearly contribution – as from January 1 of the year in which the Member status is acquired, until December 31 of the year in which, for any reason, this status is lost.

All Members shall not to perform activities contrary to the Association's aims.

The Members who take up leadership positions within the Association shall commit themselves not to submitting their candidacy on the occasion of political or administrative elections for the whole term of office of the Central Steering Board and for the elections immediately following it.

Art. 6 - Loss of Member status

The Member status is lost for the following reasons:

- a) resignation;
- b) loss of the judge status;
- c) expulsion;
- d) simultaneous registration with another association of judges which is opposed to the National Association of Judges (A.N.M.).

The membership of the A.N.M. is not consistent with the enrolment in political parties and the taking up of posts or offices in political parties or groups.

The acceptance of candidacies in national or local elections leads to the forfeiture of representative positions within the

A.N.M.

Membership of restricted and confidential associations or of associations imposing obligations not consistent with a democratic system is incompatible with membership of the A.N.M. By restricted and confidential association, we mean any association which does not allow access to its list of members, has no public headquarters or does not allow access to information relating to its Statute and funding sources.

Article 7 - Resignations

Members may resign at any time, but their resignations shall take effect only when they are accepted by the Section Board. Resigning Members shall pay the related contribution for the current year.

Should the resigning Members be subjected to disciplinary proceedings, the Central Steering Board may resolve to suspend the acceptance of resignations until the conclusion of the said proceedings.

Article 8 - Late payment

By January 15 of every year, the Treasurer shall transmit to sections and subsections the list of Members who have not paid - directly or through an order to pay - the fees and contributions of previous years. The Members who have not regularly paid the fees and contributions relating to the three previous years shall be automatically suspended from exercising their rights, including the right to vote.

The defaulting Members who fully pay the fees and contributions due shall be readmitted to the exercise of their rights, including the right to vote.

With a view to exercising their rights, the new Members shall have paid all the fees and contributions relating to the current year or shall have signed an order for their automatic monthly collection.

Article 9 – Disciplinary offence

The violation of the judges' code of ethics, as well as the commission of criminal offences, constitutes a disciplinary offence.

Article 10 – Types of penalties

Penalties shall be the following:

- a) censure, which consists of a formal reproach addressed to the Member, through the Section Board, by the President of the Association, in compliance with the resolution taken by Central Steering Board;
- b) suspension of the rights of membership but for a period not exceeding five years;
- c) expulsion, only in exceptionally severe cases. It shall be mandatorily decided if the Member has been removed from office in the judicial system.

Article 11 - Disciplinary proceedings

The Ethics and Disciplinary Committee shall carry out the disciplinary proceedings and shall have fact-finding and investigation powers. It shall submit its conclusions to the Central Steering Board, after hearing the Member subjected to the proceedings.

The Ethics and Disciplinary Committee has to summon the defendant, who may submit reply briefs and documents and may be assisted by an advocate chosen among the members.

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The opinion of the Ethics and Disciplinary Committee shall be binding on the decision of the Central Steering Board only in favour of the Member subjected to the proceedings.

The Central Steering Board shall resolve and impose penalties with a two-thirds majority and may decide their publication in the review of the Association.

The defendant may request an in camera proceeding.

Article 11 bis - Precautionary suspension

In the event that a magistrate is accused of a serious offence or is under investigation for the commission of an intentional criminal offence, the Ethics and Disciplinary Committee, once informed, may order the precautionary suspension of the said magistrate from the membership activity. The suspension will last until the conclusion of the criminal proceedings. Suspension is always ordered in the case of implementation of personal precautionary measures. The start of the precautionary suspension procedure is communicated to the judge, who may submit reply briefs and documents.

CHAPTER III BODIES OF THE ASSOCIATION

SECTION I GOVERNING BODIES

Article 12 - Governing bodies

The governing bodies of the Association shall be the following:

1) the General Meeting;

- 2) the President;
- 3) the Central Steering Board;
- 4) the Central Executive Board;
- 5) the Ethics and Disciplinary Committee;
- 6) the Board of Auditors;
- 7) the Union Office;
- 8) the Standing Study Committees.

Article 13 - The General Meeting: composition and tasks

The General Meeting shall be composed of all the members registered and having the right to vote.

It shall be the supreme body of the Association deliberating on all the topics relating to the Association's aims pursuant to Article 2.

Every Member may resort to the General Meeting for the cancellation, suspension or amendment of the resolutions taken by the governing bodies of the Association.

The General Meeting cannot resolve on amendments to the Statute of the Association, unless it has been convened for this purpose.

Article 14 – Convening of the General Meeting

The ordinary General Meeting shall be convened in Rome every 2 years, on the first Sunday of May, for adopting the financial statements and discussing any other matter. The extraordinary General Meeting may be convened everywhere, upon a resolution of the Central Steering Board. It shall also be convened, upon request of at least three Sections or at least 250 members, on a date no later than forty days since the request.

The General Meeting's agenda shall be decided by the

Central Steering Board. In the event of the General Meeting being convened pursuant to the second part of the previous paragraph, the agenda shall be decided in line with the indications and guidelines of the requesting Sections or members.

Anyway the appeals under Article 11, paragraph 4, and Article 13, paragraph 4, received by the Central Steering Board until the date of drafting of the agenda, shall be included in it.

While convening the General Meeting, the Central Steering Board shall appoint the office in charge of checking whether the Meeting is regularly established and has reached the necessary quorum. This office shall be composed of 5 members, who shall choose a President and a Secretary among themselves. This office shall be established in the premises where the General Meeting is convened as early as the day before the beginning of works.

Article 15 – Notice of the convening of the General Meeting

The convening of the General Meeting shall be notified by the Secretary-General, by mail, to the President of each Section at least 30 days before the set date and it shall be published on the website of the ANM within the same term. The Section Presidents shall notify with the same means each member the convening of the General Meeting at least 14 days before the above-mentioned date.

In urgent cases, for the extraordinary General Meetings, upon a resolution of the Central Steering Board, adopted by at least two thirds of its members, the above-mentioned terms may be reduced up to 50% and the publication may

also be omitted.

Article 16 – Ways to participate in the General Meeting

All Full Members shall be entitled to participate and vote personally in the General Meeting.

Only with reference to the matters included in the agenda of the General Meeting, they shall also represent the members who possibly delegated them to take part in the Section and sub-section Meetings pursuant to the provisions of Articles 41 and 46.

Before voting, each Member shall have the voting certificate, issued by the office referred to in the last paragraph of Article 14, which shall report also the number of votes possibly recorded in the Meetings referred to in the previous paragraph.

To this end, the certificate referred to in Article 41, paragraph 7, shall be shown to the office responsible for checking whether the General Meeting is regularly established and has reached the necessary quorum.

Article 17 - General Meeting: establishment and development

The General Meeting is regularly established, at first call, when a third of its members is present or represented. When the quorum is not reached, the General Meeting shall meet, at second call, on the same day after one hour and it is regularly established, regardless of the number of members present or represented.

Before starting its works, the General Meeting – chaired by the President of the local Section – shall elect a President, a vice-President, a secretary, two or more Quaestors and three

scrutineers.

The President shall be responsible for managing and directing the General Meeting and shall have the related ordinary and disciplinary powers. He shall set the agenda and, possibly, the duration of speeches, as well as the order of voting, and shall interpret and proclaim the voting results. The meetings of the Assembly will be streamed on the association's portal.

Article 18 - General Meeting - Voting

Voting shall take place by show of hands or by division, according to the President's decisions, unless a request is made for voting by roll call or secret ballot - approved by at least one sixth of participants - before the President asking for voting on a specific matter.

Voting by secret ballot shall always take place in the following cases:

- a) decisions on appeals relating to disciplinary matters;
- b) decisions on the appeals referred to in Article 13, paragraph 4;
- c) decisions on the no-confidence motions vis-à-vis the Central Steering Board;
- d) voting for electing people to any office or post.

The resolutions relating to the judicial system and legislative reforms shall be usually preceded by the report of the relevant Standing Committee and by the convening of Section Meetings on the matter. The motions adopted by the Section Meetings shall be enclosed to the reports and published with them.

Article 19 – No-confidence motions

When not submitted upon convening the General Meeting, pursuant to Article 14, paragraph 2, the motion of no-confidence vis-à-vis the Central Steering Board - in order to be valid – shall be submitted in the same General Meeting by at least 50 members, immediately after the President’s report.

Article 20 - General Meeting: validity of resolutions

The General Meeting shall resolve by majority voting. The General Meeting shall resolve on the proposed amendments to the Statute by a majority of two thirds of voters.

Article 21 - President

The President has the representation of the Association and shall be elected by the Central Steering Board among the members of the said Board, with the absolute majority of votes cast by voters.

In case of President’s impediment or resignation, the vice-President shall perform his/her tasks and duties.

Article 22 - Central Steering Board: composition and term of office

The Central Steering Board shall be the standing deliberative body of the Association, in the framework of the guidelines provided by the General Meeting.

Its term of office shall last 4 years. It shall be composed of 36 members elected by the General Meeting. The Central Steering Board shall also include the President of the independent Section of retired judges, who shall have a

deliberative vote only on the matters affecting the specific interest of retired judges.

The members of the Central Steering Board who do not participate in three consecutive meetings, without a valid reason, shall lose their office by law.

Article 23 - Elections of the Central Steering Board

The Central Steering Board shall be elected by universal suffrage, with direct, free and secret vote cast for competing lists of candidates.

The seats shall be attributed to the competing lists of candidates on a proportional basis.

Article 24 – Convening of electoral meetings

The Central Steering Board shall call the elections for its renewal and shall set for voting the consecutive days of Sunday, Monday and Tuesday immediately following the expiry of the first two-year period since the establishment of the Higher Judiciary Council in office. The elections shall be called at least 40 days before the start of the voting procedures. The Central Steering Board shall appoint - at the same time - the central electoral office comprised of 5 members who shall elect a President and a Secretary among themselves. The central electoral office shall establish itself within the General Secretariat of the Association three days before the start of voting.

By the Sunday preceding the start of voting, the Section Boards shall appoint the section and sub-section electoral offices, composed of three members each, including the President elected in accordance with the previous paragraph. These electoral offices shall supervise the voting

in the sections and subsections.

When it is not possible to proceed pursuant to paragraph 1 of this Article, due to early dissolution of the Board or any other reason, the elections shall be called within 15 days since the occurrence of the event which made them necessary. Voting shall start after the following fortieth day and before the fiftieth day.

Article 25 - List of candidates

Every list cannot include more than 36 candidates, which is the same number of the seats to be attributed.

In order to be valid, each list shall ensure gender equality, namely 50% for each gender and, in case of an odd number of candidacies, a difference of candidacies between the two genders equal to one.

Each candidate cannot run for more than one list and must state, in writing, that he/she accepts the nomination by signing a form available on the ANM website and authenticated, in graphic form, by the President of the section to which he/she belongs or by the electronic signature of the candidate.

The list shall be submitted by at least 100 members. No member can submit more than one list. Also the signatures of those submitting the lists shall be certified by the President of their respective Sections or should be in electronic form or sent by mail addressed to the proposers.

It is not possible to hold the office of member of the Central Steering Board more than twice consecutively.

Article 25 bis – Duty of the members

The members commit themselves to carry out the offices to

which they have been elected until their natural expiry. The members of the Central Executive Board, the members of the Central Steering Board and the members of the Section Executive Boards undertake: - not to run for the elections to the High Council for the judiciary and not to accept supervening duties other than those of their offices before the expiry of their natural mandate; - not to resign from the Central Executive Board and the Central Steering Board except for supervened serious personal, family or service-related reasons.

Article 26 – Procedures for submitting the lists

Each list, matched by the list of those submitting it and by the candidates' statements of acceptance of candidacy shall be deposited with the General Secretariat of the ANM by the twentieth day preceding the start of voting. It may also be sent by registered mail or by certified e-mail, which shall be received by the said Secretariat by the same deadline.

Once checked the regularity of the lists submitted, the General Secretariat shall assign to each list a progressive identification number, according to their order of submission.

Once the aforementioned deadline has expired, the General Secretariat shall proceed immediately to print the ballot papers, which shall bear the various competing lists with the respective identification numbers and, at the bottom of each list, five blank lines for voting the candidates.

The Secretariat itself shall see to the printing of the posters showing the competing lists to be placed in the voting halls and in their vicinity. For these purposes, it shall transmit to all the sections and subsections the posters and ballot papers

at least three days before the start of the voting procedures. It shall also ensure that the certificate of vote is delivered to every member by the same deadline.

The General Secretariat will immediately activate a dedicated page in the restricted area of the ANM portal for the elections in which the various competing lists can be viewed in full with their respective numbers.

Article 27 - Voting procedures

As from 9.00 am of the third day preceding the day chosen for elections, the electoral office – appointed pursuant to Article 24 – shall check the General Secretariat's fulfilment of the procedures under the previous Article. By the same deadline one representative for each list shall be designated. In the day preceding the start of voting, the section and subsection electoral offices shall establish themselves in the voting halls, where they shall take all the necessary measures to ensure the vote secrecy. They shall stamp and certify the ballot papers and be notified of any designation of list representatives – one for each list.

Voting shall take place from 9.00 a.m. to 1.00 p.m. of the set dates: the members of the various electoral offices shall be responsible for vote secrecy. Each member may vote in any section or subsection office, regardless of his/her belonging, provided he/she has the certificate of vote - that the office collects after the voting - and provided that he/she is not suspended pursuant to Article 8, paragraph 1. Each voter can vote for a list only, by ticking with a cross the appropriate space, next to the list chosen and can also express his/her preference for no more than 5 candidates belonging to the same list, by writing name and surname or their respective

identification numbers on the blank lines.

The preferences exceeding the number of five, as well as the votes cast in favour of candidates not included in the list voted, shall be null and void.

The list representatives may witness all the operations of the offices of which they are in charge and may have any remarks and complaints be included in the related minutes. The votes take place on the scheduled days, also by means of appropriate telematic procedures, which shall be regulated by the Central Executive Board and approved by the Central Steering Board in order to ensure the secrecy of the vote and the web authentication of the persons entitled to vote.

Article 28 – Operations carried out by the section and subsection electoral offices

Once completed the voting procedures, the sub-section electoral offices shall immediately transmit the ballot papers, the list of voters with the related certificates of vote, the minutes and the related annexes to the section office, by courier or registered mail parcel.

The section electoral office shall check whether the number of ballot papers in the subsections corresponds to the number of voters and places the ballot papers in the ballot box of the section office, by mixing them up appropriately. Once placed all the ballot papers in the ballot box of the subsection offices, it shall proceed to the vote count. Afterwards, it shall transmit immediately to the central electoral office – by courier or registered mail parcel - the minutes showing the voting results, the vote count tables, the ballot papers, the list of voters with the related certificates of votes and any possible complaints. The Section

Boards shall ensure that the widest possible information is provided on the electronic voting procedures, where activated.

Article 29 – Operations carried out by the central electoral office

Once examined any possible complaints, the central electoral office shall ascertain the number of votes obtained by each list at national level and those obtained by each candidate.

Subsequently it shall distribute the seats available among the various competing lists proportionately to the votes obtained by each of them, by not considering any residual votes. Within every list the seats shall be attributed to the candidates who have obtained the largest number of votes (list votes plus preference votes). A corrective mechanism shall be used envisaging that the male and female candidates who have obtained the largest number of votes are considered elected up to 30% until completing the elected candidates of each list. In the event of an equal number of votes, the eldest candidate shall be preferred.

After the abovementioned proportional distribution, any residual seat shall be attributed by applying the corrective mechanism, under the second part of paragraph 2, to the first excluded candidates of the lists who have obtained the largest number of residual votes.

Article 30 – Tasks and duties of the Central Steering Board

The Central Steering Board shall have the following tasks and duties:

a) to elect the President of the Association and the Central

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- Executive Board by secret vote;
- b) to unanimously award the status of Honorary Member pursuant to Article 4, paragraph 2;
 - c) to resolve on all matters relating to the activity of the Association, in accordance with the decisions taken by the General Meeting;
 - d) to provide guidelines to the Central Executive Board for carrying out the Association's activity;
 - e) to adopt the yearly budget and final balance drawn up by the Central Executive Board;
 - f) to convene the General Meeting, both the ordinary and extraordinary ones;
 - g) to call the elections for appointing the Central Executive Board, the Ethics and Disciplinary Committee and the Board of Auditors;
 - h) to take the disciplinary actions and measures pursuant to Article 11;
 - i) to organise national Congresses for study purposes;
 - l) to vote the motions of no-confidence to the Central Executive Board;
 - m) to appoint the drafting committee of the review "La Magistratura", the members of the Union Section and among them the coordinator of the Union Section, the Treasurer and, possibly, secretaries. by also hiring paid employees;
 - n) to set up Standing Study Committees;
 - o) to call referenda among the members by secret vote on matters of general interest; referenda shall be called within 40 days, when a written request is submitted to this end by 300 members;
 - p) to set the amount of the annual fees and contributions due

- by members, as well as registration and membership fees;
- q) to fulfil any other duty and task entrusted to it by this Statute;
- r) to appoint – in the first meeting and by a majority of two thirds of members - the members of the Ethics and Disciplinary Committee and of the Board of Auditors, by choosing them among all members and preferably among the members of the previous Central Steering Boards, even though retired.

Article 31 – Convening of the Central Steering Board

The Central Steering Board shall be convened by the President of the Association.

It shall meet, for the first time, after being convened by the outgoing President, within 15 days since the date of elections, so as to check whether its members have a lawful and regular position, as well as to elect the President of the Association, the vice-President, the Secretary-General, the deputy Secretary-General, the editor of the review and the other members of the Executive Board, and also to appoint the members of the Union Section and among them the coordinator of the Union Section and the Treasurer.

Afterwards the Central Steering Board shall meet in Rome every three months, Furthermore, the President may convene it whenever he/she deems it appropriate and shall convene it upon a request made by at least six of its members, on a date no later than twenty days since the request.

For meetings to be valid at least 18 members besides the President shall be present.

The Central Steering Board shall resolve by majority voting,

except for the cases referred to in Article 11, paragraph 3, Article 15, paragraph 3 and Article 42, last paragraph.

In every meeting it shall elect a President for the sitting.

The President or a delegate of each district Section, on his behalf, may participate in the meeting of the Central Steering Board, with a consultative vote.

To this end, the General Secretariat shall notify all Sections of the date of the meeting and the agenda of the Central Steering Board within ten days since the convening of the meeting.

Furthermore, the Secretary General shall transmit to each Section a copy of the minutes of every meeting within ten days for it to be made available to the members.

In the event of the General Meeting adopting the motion of no-confidence vis-à-vis the Central Steering Board, it shall be regarded as having resigned immediately and it shall remain in office for routine administration until the date of the new elections set in the motion.

Article 32 - The Central Executive Board

The Central Executive Board shall be composed of the President of the Association, the vice-President, the Secretary-General, the deputy Secretary-General, the editor of the review, the Coordinator of the Union Section and four other members.

All members shall be chosen among the members of the Central Steering Board.

The Board shall remain in office for the whole term of office of the Central Steering Board which has elected it, except for the case referred to in Article 36.

It shall be dissolved by law when the General Meeting

adopts the motion of no-confidence vis-à-vis the Central Steering Board.

The Board is regularly established with the presence of at least five members, including the President or the vice-President.

It shall resolve by majority voting.

Article 33 – Tasks and duties of the Central Executive Board

The Central Executive Board shall be the standing executive body of the Association.

It shall have the following tasks and duties:

- a) to manage the assets of the Association and promote all the activities performed by the Central Steering Board by making the related proposals for resolutions;
- b) to implement the resolutions adopted by the Central Steering Board in relation to the topics under Article 2;
- c) to adopt - in case of absolute urgency on these matters – immediately effective measures to be soon notified to the members of the Central Steering Board and to be submitted to this Board for ratification in the first subsequent meeting.

Article 34 –Tasks and duties of the Secretary-General

The Secretary-General shall have the following tasks and duties:

- a) to implement the internal and organizational resolutions of the Central Executive Board and of the central Steering Board;
- b) to supervise the staff employed by the Central Steering Board, pursuant to Article 30;

- c) to fulfil the tasks and duties referred to in Article 26;
- d) to draw up the annual budget which, after being examined by the Board, shall be transmitted for reporting to the Board of Auditors by the deadline referred to in Article 38, subparagraph b;
- e) to carry out all the activities relating to the implementing rules of this Statute.

In case of impediment of the Secretary-General, the deputy Secretary-General shall perform his/her tasks and anyway he/she shall cooperate with him/her in fulfilling the tasks and duties mentioned above.

Article 35 – Treasurer’s tasks and duties

The Treasurer shall make the withdrawals from the bank and postal accounts of the Association, on the basis of the orders issued by the President.

Article 36 - Motion of no-confidence vis-à-vis the Central Executive Board

The Central Executive Board may cast a no-confidence vote vis-à-vis the Central Executive Board. Also the members of the Central Executive Board shall take part in the voting.

When the motion is adopted by majority, the Board shall be regarded as having immediately resigned and it shall remain in office for routine administration.

The Central Steering Board shall elect the new Executive Board within the subsequent 60 days.

Article 37 - The Ethics and Disciplinary Committee

The Ethics and Disciplinary Committee shall be composed of five members, who, in the first meeting after the elections,

shall elect the President among its members.

Its term of office shall last two years.

The Ethics and Disciplinary Committee shall have the following tasks and duties:

- a) to take disciplinary actions and measures pursuant to Article 11;
- b) to ascertain the regularity of the voting procedures within the Association and mandatorily report to the Steering Board for the related measures to be taken.

The Ethics and Disciplinary Committee shall be convened in Rome by its President whenever needed and shall be convened upon a request made by at least three of its members.

It shall resolve by majority voting.

Article 38 - The Board of Auditors

The Board of Auditors shall be composed of five members, who, in the first session following the elections, shall elect the President among its members.

It shall remain in office for two years and shall have the following tasks and duties:

- a) to audit the economic and financial management of the Association;
- b) to draw up the report on the financial statements and yearly management that the Central Board shall transmit every year by January 31.

After the approval of the Central Steering Board, this report – together with the financial statements - shall be transmitted by the Secretary General to each Section, within March 31. The Sections shall ensure that it is deposited with the Secretariat for at least fifteen days, so that the members may

examine it.

The Board of Auditors shall be convened by its President whenever needed and shall meet in Rome at least two times per year. It shall also be convened upon request of at least three of its members.

It shall resolve by majority voting.

Article 38 a) – Standing Committees

The Standing Study Committees shall be composed of at least two members of the Central Steering Board and of members or people not belonging to the Association who have obtained at least five votes in the related voting procedures. Every member of the Central Steering Board may indicate up to three people for each Committee, including at least a member of the Central Steering Board, otherwise the vote shall be considered null and void. The Study Committees shall be chaired by the member of the Central Steering Board who has obtained the largest number of votes in the related voting procedures or, in case of an equal number of votes, by the eldest member.

At least every year or, in any case, whenever requested by at least five members of the Central Steering Board, the President shall report on the Committee's works and his/her report shall be published in the review "La Magistratura".

The Standing Study Committees are those on the judicial system and on legislative reforms. The Central Steering Board may set up other Standing Study Committees on any matter relating to the Association's aims.

Article 38 b) – Union Section

The Central Steering Board will appoint the members of the

Union Section including the Coordinator. They will have the following tasks:

- 1) to deal with the in-depth examination and information for the members of all questions related to the protection of the judicial, economic, social security and welfare position of judges, and may seek the assistance of external expertise;
- 2) to propose to the Central Executive Board initiatives aimed at the improvement and safeguarding of the positions mentioned in point 1.

The Coordinator of the Union Section is a member of the Central Executive Board.

CHAPTER III BODIES OF THE ASSOCIATION

SECTION II LOCAL BODIES

Article 39 –Sections

In every Court of Appeal, there shall be a Section of the Association including the members who work in that district.

The members working within the Supreme Court of Cassation shall represent the Section of the Court of Cassation located in Rome.

Article 40 - Bodies of the Section

The bodies of the Section shall be the following:

- 1) Assembly
- 2) Executive Board;
- 3) President.

Article 41 – Assembly

The rules laid down for the General Meeting shall apply to the Section Assembly.

Its ordinary meeting shall be convened every two years in February for the approval of the annual management report.

An extraordinary meeting may be convened whenever the Section Executive Board deems it appropriate and shall be convened – upon a request made by at least one fifth of members - for discussing and voting motions on all the matters relating to the Association’s aims referred to in Article 2.

It shall also be convened on a date preceding by at least three days the date of any General Meeting - and in any case after convening the sub-section meetings for the same purposes – with a view to discussing the matters included in the agenda of the General Meeting and possibly appointing delegates.

For these purposes, after closing the discussion, the Assembly’s President shall invite all participants to give clear proxies on motions and proposals outlined during the Assembly Meeting, by choosing the delegates among the Section members who have submitted their candidacy before the start of voting, provided that they are present in the Assembly Meeting.

The members who received proxies in the sub-Section meetings, pursuant to Article 46, may decide to channel them to other members in the Section Assembly, within the maximum limit of twenty proxies in total. Proxies given in excess are not valid.

The resolutions of the Section Assembly meeting shall not be valid when not adopted with the personal participation of at least one tenth of the Section members.

Article 42 - The Section Executive Board

The Section Executive Board shall remain in office four years and shall be composed of seven members, who, in the first session after elections, shall elect the President, the Secretary and the Treasurer among its members.

The Board shall have the following tasks and duties:

- a) to implement the resolutions taken by the Section Assembly;
- b) to direct and manage the Section affairs;
- c) to convene both ordinary and extraordinary Section Assembly meetings;
- d) to cast votes and express opinions to the Central Steering Board on all the matters relating to the Association's aims;
- e) to resolve on the members' requests for admission and resignation;
- f) to fulfil any other task and duty entrusted to it by this Statute.

The Section Executive Board may be dissolved for severe reasons, by a measure adopted with the two-thirds majority of the Central Steering Board, which shall appoint a Commissioner having the task of running the Section temporarily and holding new elections by the term set by the Central Steering Board itself.

Article 43 - Elections of the Section Executive Board

The elections of the Section Executive Board shall be called by the outgoing Board on the same days set for the election of the Central Steering Board. They shall be held by universal suffrage, with personal, direct and secret vote cast for competing lists of candidates. The seats shall be distributed among the competing lists on a proportional basis.

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The Section Executive Board shall appoint the section and sub-section electoral offices in accordance with Article 24, paragraph 2. The vote count shall be carried out by the section electoral office, acting as central electoral office. The rules laid down by Articles 24, 25, 26, 27, 28 and 29, shall apply, with the amendments below.

The lists of candidates shall be deposited with the Secretariat of the Section in which the electoral office appointed by the Section Executive Board is established.

Each list it cannot include more than seven candidates and – for it to be valid – shall include at least two candidates for each gender. It shall be submitted by a number of members not lower than 5% of all the Section members.

Each voter may express his/her preference vote for no more than three candidates of the list chosen.

The Section Secretariat shall be in charge of printing the ballot papers and the posters showing the competing lists.

Voting will take place on the scheduled days, also by means of appropriate telematic procedures regulated by Central Executive Board and approved by the Central Steering Board in order to ensure the secrecy of the vote and the web authentication of the persons entitled to vote.

Article 44 - Motion of no-confidence vis-à-vis the Section Executive Board

The Section Assembly shall vote by majority the motion of no-confidence vis-à-vis the Section Executive Board.

If the motion is approved, the Board shall remain in office for routine administration and new elections shall be called within sixty days.

Article 45 - The Section President

The President shall be the representative of the Section and shall convene and chair the Section Executive Board.

Article 46 – Subsections

Subsections may be established in every Court, upon the initiative of the Section or of a group of members resident in the area falling within the Court's jurisdiction.

It shall not be allowed to establish subsections in the areas where Sections are located.

The establishment of a subsection shall be ratified by the Central Steering Board.

The subsection Assembly shall meet every two years for the election of the President and the Secretary by personal, direct and secret vote, as well as when Section or General Meetings are convened for discussing the matters on the agenda and possibly appointing delegates, in keeping with Article 41. It shall always be convened by the Section Board, jointly with the subsection President. Also the members not belonging to the subsection may participate, provided that they belong to the Section; they can vote for electing the delegates to the Section Assembly or General Meeting, provided they have not already voted in other subsection meetings convened for the same purposes.

The subsection meetings for appointing delegates shall always be held before the Section Assembly meeting.

The members delegated to the subsection meetings, to be chosen among the members present, shall belong to the subsection and may participate directly with the votes obtained at the General Meetings or channels the delegates' votes and their vote to the delegates elected in the Section

Assembly meetings.

The rules of the General Meeting and Section Assembly Meeting shall apply to subsection meetings: the President shall send a copy of the Meeting's minutes to the other subsections, to the Section and to the office pursuant to Article 14, paragraph 5.

Every year the Section shall set the share of fees and contributions it shall pay, to be allocated for the operation and functioning of subsections.

CHAPTER IV INDEPENDENT SECTION OF RETIRED JUDGES

Article 47 – Members – Registered office

The independent Section of retired judges shall be located in Rome.

Unless contrary provisions are expressed to this end, all the judges who are members of the Association shall be its members by law. Also the retired judges having a seniority pension as a result of their former activity as judges may become members.

Article 48 – Aims

In addition to the aims under Article 2, the independent Section of retired judges shall aim, in particular, at protecting the moral and economic interests of retired judges, in line with the prestige of their past judicial role.

Article 49 - Voting

All the members of the independent Section of retired judges shall have the right to vote in the Assembly meetings.

In the electoral meetings the vote shall be personal, direct and secret; in the other Meetings Article 18 shall apply.

Article 50 – Fees and contributions

The fees and contributions due by retired judges shall be equal to two thirds of the fees and contributions set for the members who are still working.

50% of the annual income from fees and contributions of retired judges shall be allocated to the Association and the remaining 50% to the independent Section of retired judges.

Article 51 – President

The President shall represent and run the independent Section of retired judges. He shall be member by law of the Central Steering Board within the limits set by Article 32, paragraph 2.

Article 52 – Section trustees

The Executive Board of the independent Section of retired judges may appoint its own trustee in every Section of the Association when at least ten retired judges, who are members of the Association, are resident in its constituency. The trustee shall take part in the Section Assembly meetings as an observer: he shall be responsible for the relations with the Section bodies, as well as for the relations of the retired judges among themselves, and for the relations with the Executive Board of the independent Section. He/she shall comply with the assignments conferred by it.

Article 53 – Reference to other rules

As to what not expressly provided for in this Chapter, the

rules relating to the other Sections of the Association shall apply.

CHAPTER V MISCELLANEOUS

Article 54 - National Congress

Every two years a national Congress shall be held for study purposes. The Central Steering Board shall set the date, location and matters to discuss and shall choose the speakers. It shall also draw up the regulation and see to the organisation of the Congress. In doing so, it may avail itself of a special Executive Committee.

The works of the congress are to be streamed on the association's portal.

Article 16 shall not apply to Congresses.

Article 55 - Referenda

The Central Steering Board may hold consultative referenda on matters of general interest by secret ballot.

The referenda shall be called when requested by at least 300 members.

The signatures for requesting a referendum are to be collected also electronically with authentication by digital procedures according to the current legislation or through email or forms prepared and available on the ANM's membership portal.

The Central Steering Board can also decide that the referendum shall be conducted by electronic procedures that guarantee the secrecy of the vote and the authentication of voters.

Article 56 - Amendments to the Statute

The amendments to this Statute shall be proposed by the Central Steering Board upon its own initiative or upon a request of at least four Sections or 300 members.

The amendments shall be adopted by the General Meeting with a majority of at least two thirds of voters.

Article 57 - Dissolution of the Association

The possible dissolution of the Association shall be resolved by the General Assembly with a two-thirds majority of voters. In this case, the General Meeting shall appoint a liquidator and transfer the residual fund to the Social Security Institute for Judges.

Article 58 - Regulation

The Central Steering Board may enact regulatory standards for implementing this Statute and the electronic voting procedures and proceed to their change or replacement.

Article 59 - Publications on the review “La Magistratura”

Every member may publish his/her articles on the review “La Magistratura”.

In case of no publication, the drafting Committee shall explain the reasons to the member concerned by sending a letter to him/her.

CHAPTER VI

Article 60 – ANM mailing list

The ANM mailing list is intended for use in the discussion of

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topics of general interest of the associates or for the publicizing of debates and initiatives within the association. On the portal of the association, there will be made available on request the mailing lists of each group within the association or working with it.

NEW ZEALAND

Te Hunga Kaiwhakawā o Aotearoa

E ngā mana, e ngā reo, e ngā mātāwaka puta noa i te motu, ā, puta noa i te ao, nau mai, haere mai. Ko Te Hunga Kaiwhakawā o Aotearoa tēnei e mihi maioha nei ki a koutou. Nei rā tā mātou tūtohinga hei pānui kōrero, hei whakaarotanga hoki, mā koutou.

PART I – PRELIMINARY

1. Name

The name of the association shall be *Te Hunga Kaiwhakawā o Aotearoa*, The Judges Association of New Zealand (Incorporated)) ("JANZ" or the "association"). The association is constituted by resolution dated [] 2018. The registered office of JANZ shall be at such place as the Executive Committee from time to time decide.

2. Objects

2.1 The objects of JANZ are:

- (a) To connect the judiciary in an association for mutual support and collegiality.
- (b) To preserve, maintain and improve the independence and quality of the judiciary in New Zealand, and internationally.
- (c) To promote contact with and membership of similar international judges' associations.
- (d) To promote and encourage judicial independence and thereby the highest standards in the administration of justice and judicial conduct.

- (e) To assist, encourage, provide for and promote wellness and pastoral care for the judiciary and their families.
- (f) To support Heads of Bench in relevant jurisdictions in relation to issues affecting the judiciary and their families.
- (g) To act in combination or association, or otherwise cooperate, with any person or body, whether incorporated or not, and whether in New Zealand or elsewhere, in furtherance of these objects.
- (h) To promote research to assist in the achievement of these objects.
- (i) To give meaning to *Te Tiriti O Waitangi* through practising principles of partnership and participation.
- (j) To do all such other things as are reasonable, necessary or expedient for or conducive to the exercise or achievement of any of these objects.

3. Non-profit nature of JANZ

3.1 Pecuniary gain is not a purpose of the association. The assets and income of JANZ shall be applied in furtherance of its abovementioned objectives and no portion shall be distributed directly or indirectly to the members of JANZ except as bona fide compensation for services rendered or expenses incurred on behalf of JANZ.

PART II – MEMBERSHIP

4. Types of Members

(a) Membership may comprise different categories of

membership as decided by the association.

(b) Members have the rights and responsibilities set out in these rules.

5. Membership categories and qualifications

5.1 Members

A person is qualified to be a member if that person is, or has been:

- (a) appointed to the judiciary within New Zealand; or
- (b) appointed to the judiciary of a Pacific Island country, which in the sole opinion of the Executive Committee, undertakes duties substantially judicial in nature.

5.2. Life members

The following are eligible to become life members of JANZ:

- (a) all persons who have been appointed as a President of JANZ on such appointment become life members of JANZ; and
- (b) the Executive Committee can appoint any person as a life member of JANZ in recognition of outstanding service to the judiciary.

Life members are entitled to all the rights and privileges of membership of JANZ except that they are exempt from liability for membership fees.

5.3 Honorary Members

- (a) The Executive Committee may appoint any person as an honorary member of JANZ.
- (b) Honorary members are not entitled to vote or exercise the rights and privileges of membership of JANZ and are exempt from liability for membership fees.

6. Application for membership

- 6.1 A person who is qualified for membership of JANZ may apply for membership by writing to the Secretary/Treasurer use such application form, supply such additional information required at that time, and lodge with the application an amount equal to the annual membership fee, as shall be decided by the Executive Committee from time to time.
- 6.2 As soon as practicable after receiving an application for membership and the required sum, the Secretary/Treasurer shall consider whether the applicant is qualified to be a member. The Secretary/Treasurer may interview the applicant, if necessary, when considering the application. The Secretary/Treasurer will then make a recommendation to the Executive Committee, which shall have complete discretion when it decides whether or not to allow the applicant to become a member. The Executive Committee shall advise the applicant of its decision, and that decision shall be final.
- 6.3 After so notifying the applicant, the Secretary/Treasurer shall immediately enter the applicant's name in the register of members and, upon the name being so entered, the applicant shall become a member.

7. Register of Members

- 7.1 The Secretary/Treasurer shall keep a register of members which shall contain contact details for the members, the category of membership, the date that they became a member and the date they ceased being a member.

7.2 The register of members will be available with reasonable access for the members.

7.3 Members shall update the Secretary/Treasurer if their contact details change and provide such other details as may be required.

8. Cessation of Membership

8.1 A person ceases to be a member if the person:

- (a) dies;
- (b) resigns from JANZ by giving written notice to the Secretary/Treasurer which shall take effect from the date of such notice;
- (c) fails to pay any membership fee required by Rule 9 within six months of the due date for such payment, unless the Executive Committee decides otherwise;
- (d) has membership terminated pursuant to the following:
 - (i) If, for any reason whatsoever, the Executive Committee is of the view that a member is breaching the Rules or acting in a manner inconsistent with the objects and purposes of JANZ, the Executive Committee may give written notice of this to the member (“Warning Notice”). The Warning Notice must:
 - (A) Explain how the member is breaching the Rules or acting in a manner inconsistent with the objects and purposes of JANZ;
 - (B) State what the member must do to remedy the situation, or state that the Member must write to the Executive Committee giving reasons why the Executive Committee should not

terminate the member's membership.

- (C) State that if, within 14 days of the Member receiving the Warning Notice, the Executive Committee is not satisfied that the situation is remedied or with reasons given as to why the Executive Committee should not terminate the member's membership, the Executive Committee may in its absolute discretion immediately terminate the member's membership using the process described hereafter.
 - (D) State that if the Executive Committee terminates the member's membership, the member may appeal the decision at their own expense to a person agreed between the Executive Committee and the member, or failing agreement, within 14 days, to a person appointed for that purpose by the President of the New Zealand Law Society, whose decision shall be final.
- (ii) If the member gives the Executive Committee written notice ("Member's Notice") to the Secretary/Treasurer, within 14 days of receipt of the Warning Notice, the member will have the right to be fairly heard at a meeting of the Executive Committee held within the following 28 days. If the member chooses, the member may provide the Secretary/Treasurer with a written explanation of the events as the member sees them ("the Member's Explanation"). If the member is not satisfied that the Executive

Committee has not sufficient time to consider the Member's Explanation, the member may defer his or her right to be heard to a date set by the Executive Committee in its absolute discretion.

- (iii) If there is no request for a hearing, or after a hearing has been held, and after considering the information supplied by the member, the members of the Executive Committee of JANZ shall then, by majority vote, decide whether to terminate or reinstate the member. The Executive Committee decision may appeal the decision at their own expense to a person agreed between the Executive Committee and the member, or failing agreement, within 14 days, to a person appointed for that purpose by the President of the New Zealand Law Society, whose decision shall be final.

8.2 Any person ceasing to be a member for any cause whatsoever nevertheless remains liable to JANZ for all membership fees and any other monies payable by the member prior to the date of termination of membership.

9. Obligations of Members

9.1 All Members shall promote the purposes of JANZ and shall do nothing to bring JANZ into disrepute.

10. Fees, subscriptions, etc.

10.1 Annual membership fee(s) of JANZ for any person or group of persons will be determined from time to time by resolution of the Executive Committee.

Continuing members

10.2 Except as set out below, all members shall be liable to pay their annual membership fee on 1 April in each year.

New members

10.3 A new member shall pay an initial annual membership fee of such amount as the Executive Committee determines from time to time for each category of membership.

10.4 The initial annual membership fee entitles the new member to membership for the first membership period, that is:

- (i) From the date on which the new member joined until the next 1 April; or
- (ii) If the new member joined after 1 February in any year, from the date joined until 1 April in the following calendar year.

10.5 After the end of their first membership period, new members are liable to pay an annual membership fee in accordance with Sub-Rule 10.2.

Foundation members

10.6 Those members who provided funds for the establishment of JANZ (Foundation Members) shall be exempt from annual membership fees for the first three years from formation of the association.

11. Disputes

11.1 Any complaint about any member, whether from another member or any other person, shall be lodged in writing with the Secretary/Treasurer, and the procedures set out below shall be observed:

- (a) The Executive Committee shall have the following

discretions:

- (i) If the nature of the complaint indicates that the subject matter should be dealt with by any court or tribunal, the Judicial Complaints Commissioner, Heads of Bench, or Chief Justice, the Executive Committee may decline to investigate or deal with the complaint until any such body or person has dealt with the issues which are the subject of the complaint. If the decision of any such body or person:
 - (A) Effectively disposes of the complaint, the Executive Committee may decide to take no further action, or may on the basis of that decision without further investigation take such action as it deems appropriate, with or without calling on the complainant or member to provide further information or to make submissions;
 - (B) Does not effectively dispose of the complaint, the Executive Committee may decide to undertake such further investigations as it thinks fit, and then follow the procedures set out in paragraphs b(iv)-(viii) of this Rule.
- (ii) The Executive Committee (in its absolute discretion) may decline to investigate or consider the complaint if it considers the nature of the complaint indicates that the subject matter is petty, frivolous or inconsequential.
- (iii) The Executive Committee may decline to

investigate or consider the complaint if, during enquiries being made by or on behalf of the Executive, it becomes apparent to the Executive Committee that it is not appropriate to further investigate or consider the complaint.

(iv) If the investigation or consideration of the complaint is likely in the opinion of the Executive Committee to require extensive enquiries, or a considerable time input, or advice to the Executive Committee from professional advisers, the Executive Committee may at any time:

(A) Decline to further investigate or consider the complaint;

or

(B) Require the complainant to deposit with JANZ such sum as the Executive Committee thinks fit to reimburse JANZ wholly or partly for the costs of those making the enquiries or considering the complaint, including JANZ's professional adviser's fees, before further investigating or considering the complaint.

(b) The following procedures shall be observed when a complaint is investigated and considered:

(i) The member shall be given a copy of the complaint by the Secretary/Treasurer;

(ii) The member shall have the opportunity to provide a detailed written response to the

- complaint to the Secretary/Treasurer within not less than two weeks after receiving a copy of the complaint;
- (iii) Further enquiries may be made by or on behalf of the Executive Committee, and the results of those enquiries shall be made known to the complainant and the member by the Secretary/Treasurer;
 - (iv) The Executive Committee shall allow the complainant and the member the opportunity to be heard by the Executive Committee or any special committee established by it for the purpose of hearing and deciding upon the complaint (and no person who has any direct or indirect interest in the complaint or who is in any way biased shall hear and determine the complaint);
 - (v) The Executive Committee or any special committee hearing deciding upon any complaint may:
 - (A) Dismiss the complaint; or
 - (B) Uphold the complainant and:
 - (1) Reprimand or admonish the member;
 - (2) Suspend the member from membership for a specified period;
 - (3) Alter the membership classification for a specified period.
 - (vi) The Executive Committee or any special committee hearing deciding upon any complaint shall respect the confidentiality of the proceedings; and

(vii) The decision and any reasons which may be given (without any obligation to give such reasons) for that decision shall be conveyed by the Secretary/Treasurer to the complainant and the member in writing, and at the end of the Executive Committee or any special committee hearing deciding upon the complaint, may in the discretion of the Executive Committee, be conveyed to members.

(c) The decisions of the Executive Committee or any special committee hearing deciding upon any complaint under this Rule shall be final and binding on the complainant and the member complained against, and shall not be subject to any review or challenge.

11.2 A member whose membership is terminated under these Rules shall remain liable to all payments due, shall cease to hold himself or herself out as a member of JANZ, and shall return to the JANZ all material produced by the JANZ, including any Membership certificate, intellectual property, handbooks, manuals, or any other assets or information including any database or contact details of members.

12. Members' Liabilities

12.1 The liability of a member to contribute towards the payment of debts and liabilities of JANZ or the costs, charges and expenses of the winding up of JANZ is limited to the amount, if any, unpaid by the member in

respect of membership of JANZ as required by Rule 10.

PART III – THE EXECUTIVE COMMITTEE

13. Powers of the Executive Committee

13.1 The Executive Committee, subject to the act, the regulations, these Rules, and to any resolution passed by JANZ in general meeting:

- (a) shall control and provide oversight for the affairs of JANZ and carry out the objects of JANZ;
- (b) may exercise all such functions as may be exercised by JANZ other than those functions that are required by these Rules to be exercised by JANZ in general meeting;
- (c) has all of the powers of the association and may perform all such acts and do all such things as appear to the Executive Committee in its absolute discretion to be necessary or desirable for the proper management of the affairs of JANZ;
- (d) Administer, manage, and control JANZ;
- (e) Keep records and manage the financial affairs of JANZ, including approving financial statements for presentation to members at meetings and setting accounting policies which are in line with generally accepted accounting practice;
- (f) Delegate responsibility and co-opt members onto the Executive Committee where necessary;
- (g) Be responsible for ensuring members comply with these Rules;
- (h) Decide how and when a person becomes a member and stops being a member;

- (i) Set and vary the categories of membership and the fees from time to time;
- (j) Decide the times and dates for meetings and set the agenda for meetings;
- (k) Decide how to deal with complaints; and
- (l) Make regulations for JANZ.

14. Constitution and Membership

14.1 The composition of the Executive Committee should reflect a diversity of backgrounds, skills, judicial experience, expertise and a range of tenures that are appropriate given JANZ current and anticipated circumstances and that, collectively, enable the Executive Committee to perform its powers effectively.

14.2 Subject to Rule 13, the Executive Committee shall consist of up to 9 members:

- (a) Three ordinary members elected at every third AGM;
- (b) One member, nominated not more than annually, selected to represent retired members by the majority of retired members of JANZ;
- (c) Up to two members nominated by the NZAWJ executive from time to time, but not more than annually;
- (d) One nomination by the Chief District Court Judge, in consultation with the Kaupapa Māori Advisory Group (or its equivalent) and the Chief Māori Land Court Judge, from time to time but not less than annually;
- (e) One nomination by the Chief Justice from time to time, but not more than annually; and

- (f) The immediate Past President of the Association.
- 14.3 Written nominations for nominees to fulfil the elected positions under Rule 14.2(a) signed by an individual member and accompanied by the written consent of the nominee shall be received by the Secretary/Treasurer not less than 14 clear days before the date of each third annual general meeting. If the Secretary/Treasurer receives only 3 nominations for the 3 electable positions to the Executive Committee, those nominees will be declared elected at the next election AGM. If the Secretary/Treasurer receives more nominations than the 3 electable positions, the Secretary/Treasurer shall circulate a list of nominees to members, together with such information (not exceeding one side of an A4 sheet of paper) as may be supplied to the Secretary/Treasurer by or on behalf of each nominee in support of the nomination.
- 14.4 Election of Executive Committee members under Rule 14.2(a), if required, shall proceed in accordance with Rule 27.
- 14.5 For the avoidance of doubt, any member of the Executive Committee may be selected for President, Vice President or Secretary/Treasurer, including by re-election. The President, Vice President and Secretary/Treasurer shall be selected by the Executive Committee members, but not less than annually.
- 14.6 If the position of any Executive Committee member becomes vacant that vacancy shall be filled by a temporary Executive Committee member appointed by the remaining members of the Executive Committee until the next time Executive Committee members are

- appointed or elected.
- 14.7 If a member of the Executive Committee, for any reason, is unable to attend a meeting of the Executive Committee, then a person appointed by that member shall be entitled to participate in all discussions and to vote on any resolution proposed at that meeting.
- 14.8 The President shall preside at all meetings of the Executive Committee when present. The President is responsible for:
- (a) Ensuring that these Rules are followed;
 - (b) Convening meetings of the Executive Committee and deciding that a quorum is present;
 - (c) Overseeing the operation of JANZ and reporting on it to the Members at the Annual General Meeting.
- 14.9 The Executive Committee shall select a Vice President of JANZ, and the persons so appointed shall, assist the President with his or her duties. In making those appointments, the Executive Committee shall have regard to the desirability of representing the geographic spread of members. The Vice President is responsible for:
- (a) Providing assistance to the President when requested;
 - (b) Providing strategic thinking and leadership for JANZ; and
 - (c) Assisting the President to liaise with members in the provincial areas
- 14.10 The Executive Committee shall appoint one of its members to be the Secretary/Treasurer of JANZ. The Secretary/Treasurer shall be appointed (and may be

reappointed) at the first meeting of the Executive Committee following the Annual General Meeting of JANZ. The Secretary/Treasurer shall:

- (a) Keep the records of minutes of meetings;
- (b) Update the register of members;
- (c) Hold the records, documents and books of JANZ;
- (d) Monitor the correspondence received by JANZ and deal with and answer such correspondence;
- (e) File any documents that need to be submitted to the Register of Incorporated Societies;
- (f) Act as the contact officer for JANZ (unless some other Executive Committee member is given that role by the Executive Committee); and
- (g) Perform such other duties as may be required by the Executive Committee.

14.11 The Executive Committee may co-opt up to three members to the Executive Committee, without regard to any limitation contained in these Rules as to the maximum number of Executive Committee members, who may be elected to the Executive Committee or to representative requirements in any or all of the following events or circumstances:

- (a) Where there is a special need for further Executive Committee members by work requirements or special expertise or special projects; or
- (b) Where it is considered by the Executive Committee to be in the interests of JANZ.

14.12 The Executive Committee may appoint an Executive Director (who shall not be a member of the Executive Committee but who shall report to it) on a full or part-time basis and at such remuneration and on such terms

as may be determined by the Executive Committee or by any sub-committee of the Executive Committee appointed for that purpose, whose position role and responsibilities will be set by the Executive Committee and which may or may not include the duties of Secretary/Treasurer to the Association as the Executive Committee determines.

14.13 Notwithstanding the provisions for constitution of the Executive Committee, special provisions shall apply for the first 3 years of the association. The following members shall constitute the first Executive Committee:

President: Judge Jeff Smith
Vice President: Judge Gerard Winter
Secretary/Treasurer: Judge Claire Ryan
Executive Committee: Judges Binns, Harvey, McDonald, Matheson, Maude, Neave, Otene, together with Justice Williams (Senior Courts) and Retired Judge Thorburn (retired Judges).

15. Vacancies

15.1 A person ceases to hold office as a member of the Board if the member –

- (a) dies;
- (b) ceases to be a member of JANZ;
- (c) resigns;
- (d) is removed from judicial office;
- (e) becomes an insolvent;
- (f) suffers from mental or physical incapacity; or

- (g) is absent without the consent of the Executive Committee from all meetings held during a consecutive period of 6 months
- 15.2 In the event of such a vacancy the remaining members of Executive Committee may appoint a temporary Executive Committee member to hold office in full capacity until the next annual general meeting.

16. Meetings of the Executive Committee and quorum

- 16.1 The Executive Committee shall meet at least three times in each calendar year either by electronic means or at such place and time as the Executive Committee may determine.
- 16.2 Additional meetings of the Executive Committee may be convened by any member of the Executive Committee.
- 16.3 Email notice of a meeting or adjournment of a meeting of the Executive Committee shall be given by the Secretary/Treasurer to each member of the Executive Committee at least forty-eight hours (or such other period as may be unanimously agreed upon by the members of the Executive Committee) before the time appointed for the holding of the meeting.
- 16.4 Notice of a meeting given under Sub-Rule 17.3 shall specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted at the meeting, except business which the Executive Committee members present at the meeting unanimously agree may be transacted at the meeting.
- 16.5 Any 5 members of the Executive Committee constitute

a quorum for the transaction of the business of a meeting of the Executive Committee. The President shall have the power to establish whether or not a quorum is present.

- 16.6 No business shall be transacted by the Executive Committee unless a quorum is present and if within half an hour after the time appointed for the meeting, a quorum is not present the meeting stands adjourned to such time, not less than three days later, to a time and place as those members present consider would be suitable for the members of the Executive Committee.
- 16.7 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting but three members are present, then the meeting may proceed and any business conducted shall be deemed to have been validly conducted. In any other case, the meeting shall be dissolved.
- 16.8 In addition to meeting in person, the Executive Committee may meet and vote by any electronic medium, including by telephone, audio visual link or any other instantaneous communications medium for conferring, and a member shall be regarded for all purposes as present at such a meeting where that member is able to hear and to be heard by all others attending the meeting. Such meeting shall be deemed to be held at the place agreed by the Executive Committee provided that at least one of the members present at the meeting was at that place for the duration of the meeting.
- 16.9 An original document, or a photocopy or facsimile copy of it, which is in the possession of, or has been

seen by, all the members of the Executive Committee attending the meeting before, or at the time of, that meeting, shall be deemed to be a document tabled at that meeting.

16.10 Subject to these Rules, the Executive Committee may regulate its own practices.

17. Delegation to Executive Committee to subcommittees

17.1 The Executive Committee may, by instrument in writing, delegate to one or more committees (consisting of such member or members of JANZ as the Executive Committee thinks fit) the exercise of such functions of the Executive Committee as specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function which is imposed on the Executive Committee by the act.

17.2 A subcommittee may co-opt other members to be members of the committee if, in its opinion, they can assist the subcommittee in its work.

17.3 A function, the exercise of which has been delegated to a subcommittee under this Rule may, while the delegation remains unrevoked, be exercised from time to time by the subcommittee in accordance with the terms of the delegation.

17.4 A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.

17.5 Notwithstanding any delegation under this Rule, the Executive Committee may continue to exercise any

function delegated.

- 17.6 Any act or thing done or suffered by a committee acting in the exercise of a delegation under this Rule has the same force and effect as it would have if it had been done or suffered by the Executive Committee.
- 17.7 The Executive Committee may, by instrument in writing, revoke wholly or in part any delegation under this Rule.
- 17.8 A committee may meet and adjourn as it thinks proper, but for the transaction of its business not less than one half of its members which includes any members co-opted under Sub-Rule 18.2 must be present.

18. Voting and decisions

- 18.1 Questions arising at a meeting of the Executive Committee, or any committee appointed by the Executive Committee, shall be determined by a majority of the votes of members of the Executive Committee or committee present at the meeting.
- 18.2 Each member present at a meeting of the Executive Committee or of any committee appointed by the (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- 18.3 Subject to Sub-Rule 14.5, the Executive Committee may act notwithstanding any vacancy in the office of any member.
- 18.4 Any act or thing done or suffered, or purporting to have been done or suffered, by the Executive Committee or by a committee appointed by the

Executive Committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the Executive Committee or committee.

PART IV - GENERAL MEETINGS

19. Annual general meetings - holding of

- 19.1 Except for the first annual general meeting of JANZ, JANZ shall, at least once every calendar year and within the period of five months after the expiration of each fiscal year, convene an annual general meeting of its members.
- 19.2 JANZ shall hold its first annual general meeting:
 - (a) within the period of eighteen months after its incorporation under the act; and
 - (b) within the period of five months after the expiration of the first fiscal year.

20. Annual general meetings - calling of and business at

- 20.1 The annual general meeting of JANZ shall, subject to the act and these rules, be convened on such date and at such time and place as the Executive Committee thinks fit. The President will act as chair of the annual general meeting.
- 20.2 Every third Annual General meeting shall take place in person, although proxies may be utilised. Otherwise, annual general meetings may include personal attendance and/or attendance and voting by electronic media, including by telephone, audio visual link or other instantaneous communication medium for

conferencing, and a member shall be regarded for all purposes as present where that member is able to hear and be heard by others in attendance.

- 20.3 In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting shall be –
- (a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;
 - (b) to receive from the Executive Committee reports on the activities of JANZ during the last preceding fiscal year;
 - (c) to receive and consider the statement of accounts and the reports that are required to be submitted to members pursuant to any enactment;
 - (d) to consider motions of which notice has been given; and
 - (e) at every third Annual General Meeting to vote on or announce the members of the Executive Committee.
- 20.4 An annual general meeting shall be specified as such in the notice convening it in accordance with Rule 23.
- 20.5 An annual general meeting shall be conducted in accordance with the provisions of this part.

21. General meetings - calling of

- 21.1 The Executive Committee may, whenever it thinks fit, convene a general meeting of JANZ on such date, and at such time and place as the Executive Committee thinks fit. The President will act as chair of general meetings of JANZ. Attendance and voting at general

meetings may include by electronic media as described in Sub-Rule 16.8.

- 21.2 The Executive Committee shall, on the requisition in writing of not less than thirty per cent of the total number of members, convene a general meeting of JANZ at such time and place and, subject to this rule, on such date as the Executive Committee thinks fit.
- 21.3 A requisition of members for a general meeting –
- (a) shall state the purpose or purposes of the meeting;
 - (b) shall be signed by the members making the requisition;
 - (c) shall be lodged with the Secretary/Treasurer; and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- 21.4 If the Executive Committee fails to convene a general meeting within two months after the date on which a requisition of members for the meeting is lodged with the Secretary/Treasurer, any one or more of the members who made the requisition may convene a meeting to be held not more than three months after that date.
- 21.5 A general meeting convened by a member or members referred to in Sub-Rule 23.4 shall be convened as nearly as is practicable in the same manner as general meetings are convened by the Executive Committee and any member who thereby incurs expense is entitled to be reimbursed by JANZ for any reasonable expense so incurred.

22. Notice

- 22.1 Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of JANZ, the Secretary/Treasurer shall give at least fourteen days' written notice of the meeting to each member specifying the date, time and place of the meeting and the nature of the business proposed to be transacted at the meeting in such manner as the Executive Committee may from time to time determine.
- 22.2 Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of JANZ, the Secretary/Treasurer shall give at least 14 days' notice to each member in the manner provided for in Sub-Rule 24.1 specifying, in addition to the matters required under that Sub-Rule, the intention to propose the resolution as a special resolution.
- 22.3 No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted pursuant to Sub-Rule 22.2.
- 22.4 A member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary/Treasurer who shall include the business contained in that notice from the member in the notice of the meeting.

23. General meetings - procedure and quorum

- 23.1 No item of business shall be transacted at a general meeting unless a quorum of members entitled to vote

under these Rules is present during the time the meeting is considering that item.

- 23.2 Ten members present in person (being members entitled under these Rules to vote at a general meeting) or present by electronic means or holding a valid proxy constitute a quorum for the transaction of the business of a general meeting.
- 23.3 If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting, if convened upon the requisition of the members shall be dissolved. In any other case, it shall stand adjourned to such time and date being not more than one month later as may be specified by the Executive Committee subject to giving at least 7 days' notice of the date to all members. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 23.4 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present shall constitute a quorum.

24. Presiding member

- 24.1 The President of the Executive Committee shall, if present and willing so to act, preside at each general meeting of JANZ.
- 24.2 If the President is absent from the meeting or is unwilling to act, the Vice President, if present and willing to act, shall preside.
- 24.3 If both the President and the Vice President are absent

or unwilling to act, the members present shall elect one of their number to preside at the meeting.

25. Adjournment

- 25.1 The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting where the adjournment took place.
- 25.2 Where a general meeting is adjourned for fourteen days or more, the Secretary/Treasurer shall give notice to each member of JANZ in such manner as the Executive Committee may from time to time determine of the adjourned meeting stating the date, time and place of the adjourned meeting and the nature of the business to be transacted at the meeting.
- 25.3 Except as provided in Sub-Rule 27.2, notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

26. Making of decisions

- 26.1 A question arising at a general meeting of JANZ shall be determined on a show of hands unless the Executive Committee has adopted attendance and voting by electronic media pursuant to Sub-Rule 16.8. On declaration by the person presiding that a resolution has been carried or carried unanimously or carried by a particular majority or lost, entry to that effect is to be

- recorded in the minute book of JANZ, and is evidence of the fact without proof of the number or proportion of the votes recorded in favour of, or against that resolution.
- 26.2 At a general meeting of JANZ, where a show of hands has been selected for voting, a poll may be demanded by the person presiding or by not less than five members present in person (including electronic means) or by proxy at the meeting.
- 26.3 Where the poll is demanded at a general meeting, the poll shall be taken –
- (a) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment; or
 - (b) in any other case, in such manner and at such time before the close of the meeting as the person presiding directs, and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.
- 26.4 If the Executive Committee has approved electronic meeting and voting procedures, every person entitled to vote may vote by electronic means.
- 26.5 The Executive Committee may propose for an electronic ballot any resolution or election of members that could occur at any annual or special general meeting.
- 26.6 At least 14 days before an electronic ballot is to take place, the Executive Committee must send to the authorised email address of each eligible member notice of any resolution to be proposed. This notice must state:

- (a) The text of the resolution or persons standing for office;
 - (b) The period during which the electronic ballot is to occur; and
 - (c) The executive email address to which the ballot must be sent, or the address of the approved online form.
- 26.7 An electronic ballot takes place for a period of not less than 48 hours and not longer than two weeks, measured at the place of the Executive Committee email address (“the electronic ballot period”).
- 26.8 During the electronic ballot period, any member may cast their vote on each resolution or election either by email sent from its authorised address, or by secure online methods approved by the Executive Committee, access to which is only available by use of the authorised email address.
- 26.9 At the end of the electronic ballot period, the Executive Committee shall count the number of votes.
- 26.10 For a resolution to amend the Rules, such a resolution must be passed by electronic ballot of at least two thirds of members who submitted a “yes” or a “no” vote in the electronic ballot, voting “yes”.
- 26.11 As soon as possible after the Executive Committee has counted the votes, it shall send a notice to the authorised email address of each member advising the result of the vote on each resolution.

27. Voting

- 27.1 Subject to Sub-Rule 27.3, on a vote upon any question arising at a general meeting of JANZ a member has

- only one vote.
- 27.2 All votes shall be given personally or by proxy, including by electronic means (if adopted for that meeting).
- 27.3 In the case of an equality of votes on a question at a general meeting, the person presiding is entitled to exercise a second or casting vote.
- 27.4 A member is not entitled to vote personally or by proxy at any general meeting of JANZ unless all moneys due and payable by the member to JANZ have been paid.
- 27.5 Votes shall be exercised as follows:
- (a) At general meetings voting shall be by voices, by show of hands or other electronic method, or, on demand of the chairperson or of any member with the right to vote present, by secret ballot, and on any secret ballot each member shall be entitled to one vote.
 - (b) Unless otherwise required by these Rules, all questions shall be determined by a simple majority of those present and voting at the general meeting.
 - (c) The Executive Committee shall have the power to determine whether any vote the subject of a vote is to be held solely by postal voting or solely by electronic voting or by any method of voting involving a combination of both methods.
Provided however that any ballot for the purposes of Rule 38 must be conducted by a method of voting involving a combination of postal voting and electronic voting.

- (d) To determine any issue (including any amendment to these Rules) the Executive Committee may resolve to hold a postal or electronic ballot in accordance with the procedures set out in paragraph (e) of this Rule.
- (e) In respect of postal or electronic ballots held under this Rule:
 - (i) Only members entitled to vote may participate and vote in any postal or electronic ballot;
 - (ii) The resolution to hold a postal or electronic ballot shall set a closing date and time for ballots to be received by the Secretary/Treasurer, but the closing date shall be no earlier than a fortnight after the date ballot papers are sent out to members (excluding the date of posting);
 - (iii) In respect of any motion to amend these Rules by postal or electronic ballot, the motion shall be accompanied by reasons and recommendations from the Executive Committee, and such motion must be passed in accordance with these Rules, by a special resolution of those voting;
 - (iv) Voting in a postal or electronic ballot may be by ballots returned to the Secretary/Treasurer by mail, delivered in person, by facsimile or email;
 - (v) The Secretary/Treasurer shall declare the result of the postal or electronic ballot; and
 - (vi) The result of any postal or electronic ballot

shall be as effective and binding on members as a resolution passed at a general meeting.

- (f) A resolution passed by the required majority at any general meeting or by postal or electronic ballot binds all members, irrespective of whether they were present at the general meeting where the resolution was adopted or whether they voted.

28. Appointment of proxies

- 28.1 Each member shall be entitled to appoint another member who is entitled to vote as proxy by notice given to the Secretary/Treasurer no later than twenty-four hours before the time of the meeting in respect of which the proxy is appointed.
- 28.2 The notice appointing the proxy shall be in the form set out in Appendix 1 to these Rules.

PART V – MISCELLANEOUS

29. Funds - source

- 29.1 Subject to sections 19 and 20 of the act the funds of JANZ shall be derived from annual subscriptions of members, grants, donations and, subject to any resolution passed by JANZ in general meeting and subject to any section of the act, such other sources as the Executive Committee determines.
- 29.2 All money received by JANZ shall be deposited as soon as practicable and without deduction to JANZ's bank or other deposit account.
- 29.3 JANZ shall, as soon as practicable after receiving any money, issue a receipt.

30. Funds - management

- 30.1 Subject to any resolution passed by JANZ in general meeting, the funds of JANZ shall be used in pursuance of the objects of JANZ in such a manner as the Executive Committee determines.
- 30.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two persons, one of whom shall be a member of the Executive Committee and the other of whom may be such member of JANZ, or member of the Executive Committee or employee of JANZ authorised in writing to do so by the Executive Committee. Payments may also be made by electronic methods by the Secretary/Treasurer, or person authorised in writing to do so by the Executive Committee.
- 30.3 Notwithstanding Sub-Rule 19.9, only the Executive Committee may determine how the funds of JANZ may be invested, provided that all investments are of a kind in which trustees may invest trust funds under the Trustee Act 1956.

31. Alteration of objects and Rules

- 31.1 Subject to section 6 of the act, these Rules and the objects of JANZ may be altered, added to or rescinded by a special resolution of JANZ passed by two thirds of those voting in accordance with the procedure for general meetings described in rules 21-29. Any alteration, addition or rescission of these rules shall forthwith be registered with the Registrar of Incorporated Societies.

32. Common seal

- 32.1 JANZ shall have a common seal which shall be kept in the custody of the Secretary/Treasurer and may from time to time replace it with a new one.
- 32.2 The common seal shall not be affixed to any instrument except by the authority of the Executive Committee. The affixing of the common seal shall be attested by the signatures either of two members of the Executive Committee or of one member of the Executive Committee and the Secretary/Treasurer.

33. Custody of books

- 33.1 Subject to the act, the regulations and these Rules, the Secretary/Treasurer shall keep in his or her control all records, books and other documents relating to JANZ.

34. Inspection of books

- 34.1 The records, books and other documents of JANZ shall be open to inspection at a place appointed by the Secretary/Treasurer, free of charge, by a member of JANZ at any reasonable hour.

35. Service of notices

- 35.1 For these Rules, a notice may be served by or on behalf of JANZ upon any member at the member's physical address, postal address, facsimile number or email address shown in the register of members.
- 35.2 Where a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document shall, unless the contrary is proved, be deemed for the

purposes of these rules to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post.

- 35.3 Where a document is sent to a member by facsimile transmission to the number advised by the member for the purposes of receiving such transmissions, the document shall, unless the contrary is proved, be deemed for the purposes of these Rules to have been served on the member at the time of that transmission if advice of successful transmission is recorded on or by the transmitting machine.
- 35.4 If transmitted by email, unless JANZ knows or reasonably ought to suspect that the email was not effectively delivered, a document sent by email shall, unless the contrary is proved, be deemed for the purposes of these Rules to have been served on the member 12 hours after the time at which the email was dispatched.

36. Other powers

- 36.1 The association may, in addition to the powers implied by the general law of New Zealand or contained in the act, exercise further powers in order to carry out the Objects as follows:
- (a) Take all steps which it may consider expedient or necessary for the effective constitution and incorporation of the association pursuant to the act;
 - (b) Use the assets and income of the association as it thinks necessary or proper in payment of the costs and expenses of the association, including the

employment of professional advisers, agents, officers and staff (which may include a member) as appears necessary or expedient;

- (c) Purchase, take on lease or licence or in exchange or hire or otherwise acquire, develop, improve or otherwise deal with any land or personal property and any rights or privileges which the association thinks necessary or expedient for the purpose of attaining the objects of the association, and sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid;
- (d) Accept money or property as a gift, legacy, devise or loan on any terms acceptable to the association;
- (e) Apply, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise and exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege which any government or authority or any corporation or other public body may be empowered to grant and pay for, aid in and contribute towards carrying the same into effect;
- (f) Agree to settle accounts with all persons liable to account to the association, compromise all questions relating to the assets or income of the association including questions affecting any member and grant effectual receipts, discharges and releases;
- (g) Carry on any business;
- (h) Invest surplus funds in any way permitted by law

for the investment of association funds and upon such terms as the association thinks fit;

- (i) Incorporate any company or enter into any partnership for the purposes of carrying on any business for the benefit of the association;
- (j) Indemnify, guarantee and secure any company, firm or person against debt or liability incurred or undertaken on behalf of the association and against any costs, losses or expenses in connection with the affairs of the association and in connection with the foregoing charge the assets of the association;
- (k) Borrow or raise money from time to time with or without security and upon such terms as to priority and otherwise as the association thinks fit;
- (l) Retain the assets of the association (or any part of it, or the income from it or any part of such income) for such time as the association shall think fit and whether or not that part of the assets or income of the association is of a wasting or speculative nature;
- (m) Pay any member who is engaged in any profession such professional charges or fees for any business done by that member in and about the work of the association which that member would have been entitled to charge and receive; and
- (n) Do all things which are incidental to or conducive to or desirable to enable the association to give effect to and to attain the objects of the association.

37. By-laws

37.1 The Executive Committee may from time to time make, alter or rescind bylaws for the general management of the association, so long as these are not inconsistent with these Rules or provisions of law. All such bylaws shall be binding on members of the association. A copy of the bylaws then in place shall be made available for inspection by any member on request to the Secretary/Treasurer.

38. Winding up of the association

38.1 The association may be wound up under the provisions of the act. In the event of JANZ being wound up, the amount which remains after such wind up and the satisfaction of all debts, costs and liabilities shall be applied by the transfer of such amount to any organisation which has some objects similar to those of the association and which is exempt from income tax and no distribution shall be made to any member.

39. Interpretation

39.1 In these rules, unless a contrary intention appears –
“**Executive Committee**” means the Executive Committee established by rule 19;
“**fiscal year**” means the year ending on 31st March;
“**judiciary**” persons appointed (or formerly appointed) to a Court of Law in New Zealand;
“**majority**” means a vote made by more than half of the members who are present at a meeting and who are entitled to vote and voting at that meeting upon a resolution;

“**member**” means a member, however described, of JANZ;

“**Secretary/Treasurer**” means the person appointed under rule 18 or, where no such person holds that office, the public officer of JANZ;

“**special resolution**” means a resolution passed by a three-quarters majority of those attending and entitled to vote at a meeting of the members;

“**the act**” means the Incorporated Societies Act 1908 as amended from time to time; and

“**the regulations**” means JANZ’s incorporation regulations as amended from time to time.

39.2 In these Rules –

- (a) a reference to a function includes a reference to a power, authority or duty; and
- (b) reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty.
- (c) The provisions of the Acts Interpretation Act 1908 apply to and in respect of these Rules in the same manner as those provisions would so apply if these Rules were an instrument made under that act.

Sub-Rule 30.2

Appendix 1 – Form of Appointment of Proxy

I _____
(Full name)

of _____
(Address)

being a member of JANZ.

hereby appoint

(full name of proxy)
of _____
(Address)

being a member of JANZ, as my proxy to vote for me or on my behalf at the general meeting of JANZ (annual general meeting or other general meeting,) to be held on the _____ day of 20 ____ and at any adjournment of the meeting.

** My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details)

(Signature of member appointing Proxy)

Date _____

(* to be inserted if desired)

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Associação Sindical dos Juizes Portugueses

STATUTES

CHAPTER 1
GENERAL PROVISIONS

Article 1

Denomination, headquarters and duration

1. The “*Associação Sindical dos Juizes Portugueses*”, hereinafter referred to as ASJP, covers the entire national territory, has its headquarters in Lisbon, at Edifício Arcis, Rua Ivone Silva, lote 4 n.º 6-19º Dto, 1050-124 Lisbon and Regional Delegations in the North, Centre and South.
2. The Northern Regional Delegation shall have its headquarters in Oporto and shall comprise the area of the Judicial District of Oporto, the Central Regional Delegation shall have its headquarters in Coimbra and shall comprise the area of the Judicial District of Coimbra, and the Southern Regional Delegation shall comprise the Judicial Districts of Lisbon and Évora and shall have its headquarters in the area of the latter District.
3. ASJP shall exist for an indefinite term.

Article 2

Principles

In representing the interests of Portuguese judges, ASJP strives to improve and maintain the dignity of justice and the judicial function, and is governed by the principles of democracy and independence from the State, religious

affiliations and political parties.

Article 3

Object

1. The object of ASJP is
 - a) to promote the constant maintenance of dignity of the judicial function by defending and ensuring an effective independence of judges and by fostering the creation of structures capable of guaranteeing it;
 - b) to ensure the representation and defence of the social, cultural, moral, professional and economic interests of Judges;
 - c) to fight for the defence of Human Rights and for the adoption of measures that guarantee the realization of accessible and prompt justice;
 - d) to propose to the competent sovereign organs the reforms leading to the improvement of the judicial system and to demand consultation of the Association in all reforms concerning these matters;
 - e) to promote cultural activities, by organizing colloquiums and conferences and by granting scholarships for training in foreign countries, and to establish exchanges with similar bodies;
 - f) to defend and stimulate the solidarity and cohesion of judges;
 - g) to convey to others the Judges' positions on all relevant aspects for the defence of the image, prestige and dignity of the judiciary;
 - h) to defend any member who is the victim of injustice, and may even ensure such defence in proceedings brought against him or her, unless the member himself or herself

- opposes it
- i) to promote the publication and dissemination of legal literature;
 - j) to integrate national and international organizations;
 - k) to provide the relatives and heirs of the associates, in case of their death, with the necessary information, aid and assistance for the protection of the rights arising from the exercise of the judicial function.
2. The ASJP is particularly responsible, with a view to maintain the dignity of the judicial function
- a) to ensure that Judges attain an economic situation and other benefits compatible with the demands and dignity of the function;
 - b) to ensure the periodic readjustment of salaries and retirement pensions, in accordance with the principle of parity between retired Judges and Judges in full service, taking into account the socio-economic conditions;
 - c) to advocate for the constant improvement of working conditions and environment and for the creation of conditions for the limitation of the number of cases submitted for evaluation and decision by each Judge.

Article 4

ASJP autonomous bodies

1. The Jurisprudence Group shall be part of ASJP and shall be subject to the General Council and the National Board.
2. The Jurisprudence Group shall enjoy administrative and financial autonomy and shall be governed by these statutes and by its internal regulations.
3. The Jurisprudence Magazine is owned by ASJP and its edition and distribution may be assigned to the Social

Solidarity Association "Casa do Juiz", by means of a protocol.

Article 5

National and international organizations

1. ASJP may become affiliated to national or international organizations that pursue purposes compatible with those of these statutes and with its attributions, subject to prior approval by the General Assembly.
2. The representation of ASJP in these organizations is the responsibility of the President of the National Board.
3. The National Directorate, when deemed necessary, may appoint other members to represent ASJP in the organizations referred to in article 5.1 above.

CHAPTER II

ASSOCIATES

Article 6

Admission requirements

1. Judges in active service, retired judges, whatever their situation, judges in training regime and also justice auditors, already assigned to be judges, may be associates.
2. The admission of associates depends on prior registration at the request of the interested party and implies acceptance of the principles, objectives and aims of ASJP, in accordance with of the principles, objectives and goals of ASJP, in accordance with the statutes.
3. The General Assembly may establish at the beginning of each year a fee for the admission of new associates.

4. Honorary Membership may be granted to any Judge or person who is or has been assigned the function of judge, national or foreign, who merits this distinction, for demonstrated merit or services rendered to ASJP, by deliberation of the General Assembly.

Article 7

Rights and duties of the associates

1. The rights of members are, in addition to others provided for in these statutes
 - a) to participate and vote in General Meetings and take part in other activities of the ASJP;
 - b) to elect and be elected to ASJP bodies;
 - c) to examine ASJP's books, accounts and other documents, under the terms defined by the National Board;
 - d) to present proposals, formulate requests and address in writing the ASJP bodies, in all matters related to its responsibilities;
 - e) to enjoy all advantages and benefits resulting from ASJP's activity;
 - f) to receive an identification card of Associate;
 - g) to obtain information about the activities developed by ASJP.
2. The duties of the associates are
 - a) to comply with the statutes, regulations and deliberations approved by the ASJP's competent bodies and actively collaborate in the pursuit of its objectives;
 - b) punctually to pay the dues and other charges set by the ASJP's competent bodies;
 - c) to exercise with zeal and diligence the positions for which they are elected or appointed, unless an excuse is

- accepted under the terms of the statutes;
- d) to communicate to the National Board in writing any changes of domicile and inform it of any other aspects regarding their membership;
 - e) to comply and ensure that the deliberations of the ASJP bodies are complied with with with respect and courtesy;
 - f) to refrain from assuming, individually or collectively, any offensive or discrediting behaviour contrary to the principles and objectives of the ASJP.

Article 8

Discipline of Associates

1. Breach of legal, statutory and regulatory duties by any member, which due to its gravity or repetition is susceptible to jeopardize the principles defined in these statutes, shall constitute a disciplinary infraction and subject the person responsible to disciplinary sanctioning proceedings.
2. Depending on the gravity of the infraction, the following disciplinary sanctions shall be applicable:
 - a) warning;
 - b) recorded warning;
 - c) suspension for up to 180 days;
 - d) exclusion.
3. The penalty of exclusion may only be applied to a member who commits acts seriously contrary to the requirements of the function of Judge, that seriously damage the interests of ASJP or that constitute, in a systematic and serious manner, conduct manifestly contrary to its principles and objectives and when no other sanction is appropriate.

Article 9

Disciplinary procedure

1. The initiation and investigation of disciplinary sanctioning proceedings shall be the responsibility of the National Directorate, on its own initiative and on the initiative of any ASJP body or member.
2. Once the proceedings have been concluded, the National Directorate may either close the case, or present it to the General Council accompanied by a proposal for the application of a disciplinary sanction.
3. The decision to close the case may be appealed against to the General Council, by means of a reasoned request from any member addressed to its President, to be submitted within 20 days.
4. The imposition of disciplinary sanctions is the responsibility of the General Council, after assessing and discussing the findings of the investigation.
5. Members who are the object of disciplinary proceedings may not participate in deliberations regarding the investigation and decision of the proceedings.
6. The disciplinary proceedings are conducted in writings and shall ensure contradictory and defence guarantees.

Article 10

Suspension of membership rights

1. Membership shall be suspended in the following cases:
 - a) leave on personal grounds;
 - b) imposition of a disciplinary penalty of suspension;
 - c) failure to pay dues for two consecutive years;
 - d) request by the interested party addressed to the National Board when it is recognized that there are serious reasons.

2. Members who are retired, on leave on personal grounds or who exercise functions in services or commissions depending on the executive power, may not be elected to the ASJP bodies and their mandate in the ASJP shall automatically expire if any of those situations occurs during their term of office.
3. Members who are retired may only be elected and exercise functions in the Board of Auditors and members who exercise functions as Judicial Inspectors and Members of the High Council of the Judiciary and Administrative and Tax Courts may only be elected and exercise functions in the General Council.
4. The provisions of the preceding paragraphs are applicable to honorary members with the necessary adaptations.
5. The right to vote and to be elected for ASJP bodies shall be suspended while dues remain unpaid.
6. Judicial auditors may not be elected for ASJP bodies.
7. The suspensions provided for in article 10.1(e) and 5 above shall cease as soon as the member pays his or her arrears in dues and membership fee as established by the General Assembly or when he or she presents a phased payment plan approved by the National Board.

Article 11

Loss of membership

1. Membership shall be lost by all those who cease to meet the statutory admission conditions, by those who inform the National Board in writing of their withdrawal, and by those who are excluded by decision of the General Assembly after deliberation.

2. The loss of membership implies the immediate cessation of statutory rights and duties and shall not give rise to a refund of the subscriptions and charges already paid.
3. A member who has requested exclusion from membership may only be reinstated as long as he or she pays the contributions in arrears plus a fee of 20% of the amount in debt.

CHAPTER III

ORGANISATION AND FUNCTIONING

Article 12

Bodies of ASJP

The organs of ASJP are:

- a) the General Assembly;
- b) the General Council;
- c) the National Board;
- d) the Board of Auditors;
- e) the Regional Directorates.

Article 13

Minutes

1. All meetings of the ASJP bodies shall be documented in the minutes, which shall contain, at least:
 - a) place, day and time of the meeting;
 - b) identification of the members of the body and of the associates present, which may be replaced by an attendance list to be attached;
 - c) agenda, which may be replaced by attaching the notice convening the meeting;
 - d) reference by summary to the matters dealt with;

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- e) any events relevant to the knowledge of the meeting's content that the respective chairperson decides to record on his or her own initiative or at the suggestion of any other member or associate.
2. The minutes of the National Board and Regional Directorates meetings and those of the Board of Auditors shall be signed by all members present and those of the General Assembly and of the General Council by the respective President, Secretaries or Vice-President and by the members or elected members who so request.
3. At any time, any member or representative who was not present at a General Assembly or General Council meeting, respectively, and who should have been personally summoned but was not, may add his or her signature, upon request to the President who shall take note of the fact, and any irregularity or defect resulting from the lack of summoning, presence or signature shall be remedied.
4. Each body has its own minute books the opening and closing minutes of which shall be signed by the respective chairperson and another member of the respective body.
5. Any member shall have free access to consult the minutes and may make copies or request that copies be made at his or her own expense.

SECTION I THE GENERAL ASSEMBLY

Article 14 Constitution of the General Assembly

1. The General Assembly is the sovereign and deliberating

- body of ASJP and comprises the Board and all members with full rights.
2. The Board of the General Assembly comprises the President and two Secretaries, the former being responsible for convening the General Assembly and for conducting its works and the latter for providing secretarial services for the meetings and drawing up the minutes.
 3. The Chairman and Secretaries of the Board are elected from the national list with the most votes.
 4. In the event of absence or impediment of any member of the Board, the General Assembly shall designate, from among the members present, the persons who will act as Chairman or Secretaries.

Article 15

Powers of the General Assembly

The General Assembly may, without prejudice to other powers conferred by the law or by the statutes, deliberate on

- a) the Association's programme;
- b) budget, report and accounts;
- c) amount of dues and other charges;
- d) amendments to the bylaws;
- e) dismissal of the National Board and Regional Directorates, by approval of motions of censure;
- f) dissolution of ASJP;
- g) appeals on disciplinary matters;
- h) ASJP's membership of national or international organisations;
- i) other matters not included in the legal or statutory attributions of the other ASJP bodies.

Article 16
General Assembly

1. Ordinarily, the General Assembly will meet once in each calendar year, before the end of March, to assess the budget, report and accounts.
2. However, the General Assembly may meet whenever convened by its President, on his own initiative, at the request of any of the ASJP bodies or at the request of 30 members with full rights.
3. The General Assembly meetings, save in exceptional cases, shall be held in the Judicial District of Coimbra.

Article 17
Convening the General Assembly

1. The convocation for the General Assembly shall be placed on the notice board at the national and Regional Delegations' headquarters, published in a newspaper with national circulation and communicated in writing to all members at least 8 days in advance of the proposed meeting, and 30 days in advance of the proposed meeting in case of amendments to the Articles of Association, mandatorily containing the respective agenda, indication of the day, time and place of the meeting, and the reasons for the call.
2. Should the decision on appeals on disciplinary matters be part of the agenda, the summons of the member affected shall be made by registered letter with acknowledgement of receipt sent to the person's address recorded in the ASJP register at least 15 days in advance and deemed to have been received on the third working day following

the deadline for collection.

3. Any irregularities in convening a General Assembly shall be legitimized if the members directly affected by the deliberations do not expressly oppose them in a letter addressed to the President of the General Assembly within 10 days of the meeting taking place.

Article 18

Functioning of the General Assembly

1. The General Assembly may take place at first convocation, provided that the majority of members in full enjoyment of their rights or 3/4 of these members are present, in case the dissolution of ASJP is on the agenda.
2. If the requirement under article 18.1 above is not met, the General Assembly may validly function and deliberate at a second convocation 60 minutes after the time scheduled for the first call, provided that at least 60 members with voting rights are present, or 120 members with voting rights in case the dissolution of ASJP is on the agenda.
3. In view of the small number of participants and of the importance of the items on the agenda, even if the minimum number of members is present, the President, on his or her own initiative or on the proposal of a member and provided that this is decided at the Assembly itself, may determine, by a decision without appeal, its postponement.
4. If the meeting is not held because the minimum number of members is not reached or because it was so determined under the terms of article 18.3 above, the meeting shall be held within the next twenty days, and shall be convened by an announcement in a national

newspaper and by notices posted at the National Headquarters and Regional Delegations, in which case the Assembly shall be held on the scheduled date, with any number of participants.

Article 19

Deliberations of the General Assembly

1. The deliberations of the General Assembly are taken:
 - a) by a majority of three quarters of the votes of the members present, in the case of dissolution of ASJP;
 - b) by a majority of three quarters of the votes of the members present, in the case of amendments to the statutes;
 - c) by a majority of two thirds of the votes of the members present for approval of motions of censure;
 - d) by a simple majority of the votes of the members present, in all other cases.
2. Voting by correspondence or by proxy is not allowed, with the exception of resolutions referred to in paragraph b) of article 15 for which voting by proxy is permitted.
3. In the cases in which voting by proxy is allowed, the proxy shall be written and contain the date, name, professional category and signature of the member, it shall only be valid for the meeting to which it refers and the member may not vote with more than five proxies, being allowed subrogation in one degree.
4. Voting is secret whenever the deliberations deal with disciplinary matters or when so decided by the President at the request of 20 members.
5. The deliberations approved in the General Assembly are published by public notice for 20 days, placed on the notice board at the national and regional delegations'

headquarters in the 5 days following the end of the Assembly's works.

6. No member may vote on deliberations regarding matters in which there is conflict of interest between ASJP and him or her, his or her spouse, ascendant or descendant.

SECTION II GENERAL COUNCIL

Article 20

Constitution of the General Council

1. The General Council is the deliberative and policy-making body of ASJP, which permanently represents its members in matters not included in the exclusive competence of the General Assembly.
2. The General Council is composed of 31 members, namely the President of the National Board, the Vice-President, the Secretary General and the Regional Secretaries, who are ex-officio members, and the remaining 25 members who are elected.
3. Of the 25 elected members, 13 represent the national territory, 4 the Northern Regional Delegation, 4 the Central Regional Delegation and 4 the Southern Regional Delegation, being elected according to the principle of proportional representation, in lists composed in accordance with article 35.
4. The General Council is presided over by the President of the National Board, who shall be replaced by the Vice-President in case of absence or impediment.
5. The President is responsible for convening the meetings, chairing them and ensuring that the secretariat is set up,

drafting the minutes and publishing the resolutions.

Article 21

Competence of the General Council

It shall be the duty of the General Council, without prejudice to any other powers conferred by the law or by the statutes:

- a) to ensure the normal functioning of ASJP in order to achieve its goals;
- b) to ensure strict compliance with the deliberations of the General Assembly;
- c) to support the work of the National Board and the Regional Directorates;
- d) to make recommendations to the National Board and the Regional Directorates;
- e) to approve the internal regulations;
- f) to supervise the electoral process and to give final decisions on electoral complaints and appeals;
- g) to promote the establishment of the Electoral Commission up to 90 days before the date set for ordinary elections or within 10 days of the approval of any no-confidence motion that calls for early or mid-term elections;
- h) to exercise disciplinary power in the first instance;
- i) to recommend to the General Assembly the approval of no-confidence motions for the dismissal of the National Board or Regional Directorates;
- j) to assess the requests for resignation and refusal of the ASJP office-holders and to declare the expiry of their mandates;
- k) to supervise the activities of autonomous ASJP bodies, as well as to appoint and exonerate the members who coordinate the Philanthropic Section, giving them the

- general guidelines to be followed in the interest of ASJP;
- 1) to resolve disagreement concerning the interpretation of the statutes or of the internal regulations.

Article 22

Meetings and convocation of the General Council

1. The General Council shall meet once in each period between judicial holidays and extraordinarily whenever it is convened by its President, in the area of each Regional Delegation, according to the principle of rotation, except in exceptional cases.
2. The General Council may meet on first convocation if the majority of its members are present; on second convocation, 60 minutes after the scheduled time, if 10 or 15 of its members are present, depending on whether the meeting is ordinary or extraordinary.
3. If the meeting is not held due to a lack of the minimum number of members, the President decides to postpone it to one of the following 20 days, which shall be considered as a notice to convene; in this case, the Council must meet on the date set, regardless of the number of participants.
4. Without prejudice to provisions of article 20.2 above, the members of any other ASJP bodies may attend the meetings of the General Council and take the floor, without the right to vote.
5. Meetings shall be called at the previous meeting or by means of a communication addressed to all members, with a minimum of 10 days notice, containing the respective agenda and stating the day, time and place of the meeting as well as the reasons for convening it in the case of an extraordinary meeting.

Article 23

Resolutions of the General Council

1. Decisions of the General Council shall be taken by simple majority of the votes of the members present and, in the cases provided for in article 21 (i) above, by the votes in favour of at least 14 of its members elected in the lists for that body.
2. Voting is personal and votes are secret in cases when the President so decides, at the request of any member and whenever the deliberations are on disciplinary matters.
3. The approved deliberations shall be published by notices for 5 days and posted at the national and Regional Directorates within 5 days after the closure of the proceedings.
4. No representative may vote on deliberations concerning matters where there is conflict of interest between the ASJP and him/herself, his/her spouse, ascendant or descendant.

SECTION III

THE NATIONAL BOARD

Article 24

Composition and functioning of the National Board

1. The National Board shall be composed of the President, the Vice-President, the Secretary General and three members, the first of whom shall act as treasurer, elected from the national list with the highest number of votes, and of the Regional Secretaries, who shall be members ex-officio.
2. If the President is absent or unable to attend, the Vice-

President shall replace him/her.

Article 25

Powers of the National Board and its members

1. The National Board is the collegial representing and administering the ASJP, managing its current affairs and implementing the decisions of the General Assembly and of the General Council.
2. It shall be the duty of the National Board:
 - a) to representing the ASJP through its President;
 - b) to comply with and to enforce ASJP statutes, regulations and deliberations;
 - c) to stimulate the activity of the association;
 - d) to draw up the programme, the budget, the report and the accounts to be submitted to the General Assembly;
 - e) to initiate and to instruct disciplinary proceedings;
 - f) to define the manner in which members may examine the books, accounts and other documents of the ASJP;
 - g) to admit and to keep an updated register of members, issuing the respective identification cards;
 - h) to collect, through the Regional Directorates, the fixed quotas and fees and to allocate the revenues in accordance with these statutes;
 - i) to entrust any organ or associates with the preparation of opinions on any matters of interest to ASJP;
 - j) to exercise such other powers as may be conferred upon it by the General Assembly and the General Council.
3. It is the responsibility of the President of the National Board, without prejudice to the power of delegation:
 - a) to preside over the ASJP and to represent it or determine who shall represent it;

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- b) to convene and direct the National Board meetings;
 - c) to chair the editorial committee of the ASJP bulletin or magazine;
 - d) to strive for compliance with the General Council's deliberations;
 - e) to coordinate the work of the National Board and the Regional Directorates and to assign functions to their members;
 - f) to perform other functions as determined by the General Assembly and by the General Council.
4. It is the responsibility of the Vice-President:
- a) to replace the President in case of absence or impediment;
 - b) to perform other functions as delegated by the President.
5. The Secretary General is responsible for:
- a) assisting the President in representing the National Board and coordinating the activities of the ASJP;
 - b) directing the ASJP secretariat and administrative services;
 - c) ensuring the implementation of the National Board's resolutions.
6. The Treasurer shall have the following duties, in addition to those assigned by the President:
- a) to manage the accounts, to prepare the accounts, to collect the revenues and to pay the expenses;
 - b) to operate the bank account together with the Secretary General;
 - c) to look after the property and assets of the ASJP;
 - d) to organise the ASJP book-keeping;
 - e) to monitor the distribution of the incomes of the Jurisprudence Collection, in accordance with the protocol signed with the Social Solidarity Association "Casa do Jurisprudência" or with the internal regulations of the

Jurisprudence Group.

7. The two elected members shall be responsible for assisting the President, the Secretary-General and the Treasurer and for exercising the functions assigned to them.
8. As members of the National Board, the members ex-officio shall carry out the functions assigned to them, shall represent the interests of the members of their respective Regional Delegation and shall transmit the National Board deliberations to the respective Regional Delegations.

Article 26

Meetings and deliberations of the National Board

1. The National Board shall meet every fortnight and whenever convened by its President, provided that the President or his/her substitute and four other members are present.
2. Decisions shall be taken by majority vote of the members present; the President having a casting vote in case of a tie.
3. The National Board may decide to invite other ASJP members or collaborators to its meetings whenever deemed convenient.

SECTION IV

THE BOARD OF AUDITORS

Article 27

Composition and powers of the Board of Auditors

1. The Board of Auditors is the collegial body for advise on,

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and supervision of, the economic and financial activity of the ASJP and of its autonomous bodies. It shall be composed of the President and two members, elected on the national list having obtained the most votes, the first being replaced by the second in the order of placement on the list.

2. The Board of Auditors shall be responsible for:
 - a) issuing a prior opinion on the budget, the report and the accounts, the signing of loan agreements or other similar contracts generating financial charges, as well as on the acquisition and disposal of real estate and movable assets subject to registration and in other cases provided for by the law or the statutes;
 - b) issuing an opinion on specific issues at the request of the General Assembly, the General Council or the National Board;
 - c) verifying the regularity of the books, accounting records and supporting documents;
 - d) requesting the National Board the information and clarifications necessary for the exercise of its functions and attending the meetings of the National Board whenever it deems it appropriate.
3. The President of the Board of Auditors shall be responsible:
 - a) to convene and chair the meetings of the Board of Auditors;
 - b) to report on the opinions of the Board of Auditors.
4. The Members shall assist the President and exercise the powers delegated to them by the President.

Article 28

Meetings and deliberations of the Board of Auditors

1. The Board of Auditors shall meet every six months and whenever necessary to deliberate and issue opinions within its competence, upon convocation by its President.
2. Decisions shall be taken by majority vote of its members, the President having a casting vote in the event of a tie.
3. The Board of Auditors may request the National Board to appoint a technician whenever necessary to assist it in the exercise of its functions.

SECTION V

REGIONAL DIRECTORATES

Article 29

Constitution and competences of Regional Directorates

1. The Regional Directorates are the collegial bodies that ensure the representation of the interests of the members of the respective regional delegation and the decentralised execution of ASJP activities.
2. Regional Directorates are composed by the regional secretary and by two other members, elected from the district list with the most votes. The regional secretary is replaced by the first member when absent or unable to attend.
3. The Regional Directorates are responsible for:
 - a) representing ASJP in the area of the respective Regional Delegations, within the framework of the powers delegated by the National Board or of the resolutions approved by the General Assembly and the General Council;

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- b) representing the interests of the members of the respective Regional Delegation before the national bodies of ASJP;
 - c) stimulating associative activity within the area of the respective Regional Delegation;
 - d) addressing petitions to the national bodies of ASJP;
 - e) keeping an updated register of members in the area of the respective Regional Delegation;
 - f) providing the necessary collaboration to the national bodies of ASJP.
4. The Regional Secretary shall have the duty:
- a) to preside, represent and direct the Regional Directorate;
 - b) to convene and chair the Regional Directorate meetings;
 - c) to direct the Regional Directorate administrative services;
 - d) to coordinate the Regional Directorate actions and to assign functions among its members;
 - e) to perform other functions as determined by the General Assembly and by the General Council.
5. The Members shall have the duty:
- a) to perform the functions delegated by the Regional Secretary;
 - b) to assist the Regional Secretary in the exercise of his/her functions.
6. Each Regional Directorate shall have its own budgetary endowment, integrated in the ASJP budget, the amount of which is fixed upon recommendation of the General Council, which shall take into account, in particular, the principle of proportionality between the allocation and the contributions paid by the members of the respective Regional Directorate, which may not be less than 50% of the contributions received in the previous financial year.

Article 30

Meetings and deliberations of the Regional Directorates

1. The Regional Directorates shall meet monthly and whenever convened by their Regional Secretary provided that two of their members are present, one of them being the Regional Secretary.
2. Decisions are taken by a majority vote of the members present; the Regional Secretary has a casting vote in case of a tie.
3. The deliberations of the Regional Directorates regarding facts or members in the area of the respective Delegation, which constitute statements of the class before any entity or before the media, shall be immediately forwarded to the President of the National Board, with the request to convene a meeting of the National Board, to be held within 48 hours, in order to decide on its execution as a deliberation of the Association or only of the Delegation itself.
4. In the event that the National Board does not concur with the deliberation of the Regional Directorate, nor deliberates to adopt a different position on the same issue, the Regional Secretary may implement the deliberation provided that there is no opposition from the National Board.

CHAPTER IV

ELECTIONS AND TERMS OF OFFICE

Article 31

Ordinary elections and terms of office

1. The members of the bodies shall be elected ordinarily for

three years, by secret ballot, by all members in the full exercise of their rights, during the last quarter of the respective year.

2. The same member may not hold office in more than one ASJP body, except in cases of ex-officio duties provided for in these statutes.
3. For the purposes of article 31.2 above, the bodies foreseen in article 4 are not considered to be bodies.
4. Only one consecutive re-election to the same body shall be permitted.
5. The functions of the members of the ASJP bodies, notwithstanding the expiry of their term of office, shall continue until the new elected members take office, as decided by the General Council.
6. The exercise of any office within the ASJP shall be free of charge, without prejudice to the possibility of payment of expenses, as decided by the General Council.

Article 32

Dismissal, resignation and expiry of mandate

1. The approval of a motion of no confidence in the National Board shall determine the dismissal of all members of the ASJP bodies and the approval of a motion of no confidence in a Regional Directorate shall only determine the dismissal of the respective members.
2. Any member of the ASJP bodies, where there is a just reason, may resign from office upon written request addressed to the President of the General Council.
3. The loss of membership or the suspension of the rights of the member of any ASJP body determines the expiry of the respective mandate and the immediate termination of

- duties.
4. In the cases provided for in paragraphs 2 and 3 above, the replacement of the member who has ceased functions shall be ensured by the substitute elected for the respective body or, in the case of a member of the General Council, by the non-elected candidates, first the effective ones and then the substitutes, in the order of placement on the list.
 5. In the cases provided for in paragraph 1 above, the members of the bodies shall remain in office until the new members are elected and take office, as decided by the General Council.
 6. In the event of resignation or expiry of the term of office of the Secretary General, the President of the National Board shall appoint a substitute from among the members of the National Board who shall be replaced in accordance with paragraph 4 above.

Article 33

Early elections

1. Early elections shall be held for all ASJP bodies when a motion of no confidence has been approved against the National Board and when the resignation or expiry of the term of office of the President and the Vice-President of the National Board occurs.
2. In the event of termination of office due to resignation or expiry of the term of office of members of the ASJP bodies, early elections shall also take place when the replacement by substitute candidates does not allow for more than half of the members of the respective plenary body to remain in office.

3. Early elections shall be held within 60 days from the date of the constitution of the Electoral Commission, in accordance with article 21.g above.
4. The mandates resulting from early elections shall last until the third month of November following the election.

Article 35

Lists of candidates

1. The election and scrutiny shall be based on two lists, one including the candidates for all national bodies and the other only the candidates for the Regional Directorates.
2. The lists shall be identified by letters drawn by lot and shall contain for each candidate his or her full name, the position for which he or she is running, the court or department in which he or she performs his or her duties as well as the declaration referred to in paragraph 8 below.
3. Each member may only be a candidate for one position.
4. The presentation of a list for the national bodies necessarily implies the presentation of lists for all Regional Directorates and must be proposed by at least 50 members.
5. Lists of candidates may be presented exclusively for the respective Regional Directorate and must be proposed by at least 20 members of the respective Regional Delegation.
6. The lists for the General Council shall include separately, as candidates, 13 members and 5 substitutes at national level and 4 members and 2 substitutes for each of the Regional Delegations.
7. The lists for the National Board, the Board of Auditors and each of the Regional Directorates include all the effective

- candidates and, respectively, 3, 1 and 2 substitute candidates.
8. Candidates for the positions of the Regional Directorates and for the regional quotas for the General Council must belong to the area of the respective Regional Delegation, being considered as such the one where they exercise their functions at the time of the candidacy or, in case of members who exercise their functions in courts or bodies at national level, the one they declare to belong to at that time.
 9. Each list of candidates shall appoint a delegate to represent it in the electoral process and shall be entitled to a monetary subsidy attributed by the National Board, according to criteria of equality and balance, under the terms defined by the General Council upon proposal of the National Board.

Article 36

Voters Rolls

1. The voters rolls shall include all members entitled to vote registered until the beginning of the elections, divided into judicial districts.
2. The member shall be registered in the Regional Delegation in whose jurisdiction he/she exercises his/her functions or, in case of members who exercise their functions in courts or bodies at national level, in the one they declare to belong to.
3. The National Board, in coordination with the Regional Directorates, shall be responsible to organize and update the electoral rolls.

Article 37

Electoral Commission

1. The electoral process shall be directed and supervised by an Electoral Commission composed by the President of the General Assembly who shall be the Chairman, and two other members appointed by the General Council.
2. The members of the Electoral Commission may not be members of ASJP bodies or be candidates in any list running for elections.
3. The Electoral Commission shall be responsible:
 - a) for setting the date of the elections and the deadline for the presentation of the lists of candidates;
 - b) for accepting and verifying the regularity of the lists of candidates, with the possibility of requesting the correction of incompleteness within the deadline set for that purpose;
 - c) for collecting and verifying the regularity of the voters rolls and for requesting the National Board all the necessary clarifications and corrections for that purpose;
 - d) for constituting the polling stations, presided over by a constituent designated by the Electoral Commission, who shall have a casting vote in case of a tie, and by a constituent indicated by each list of candidates;
 - e) for supervising and verifying the regularity of the electoral process;
 - f) for drawing up identification letters for the lists of candidates and for preparing and distributing the ballot papers and the electoral rolls;
 - g) for supervising the allocation of subsidies to the lists of candidates;
 - h) for deciding on complaints from the polling stations;

- i) for counting the votes and for proclaiming the results of the elections.
4. Once the lists of candidates have been accepted, one representative appointed by each of the lists shall be part of the Electoral Commission, with the right to vote in the matters set forth in subparagraphs 3.h) and i) above.
5. The Electoral Commission shall meet when convened by its chairperson and shall decide by majority vote, the chairperson having a casting vote in case of a tie.
6. The Electoral Commission shall operate at the headquarters of the National Board which shall provide it with all the support necessary for the exercise of its functions.

Article 38

Electoral proceeding

1. Once the Electoral Commission is constituted, the date of the election shall be immediately fixed and publicized at least 60 days in advance of the election and the deadline for the submission of the lists of candidates shall be fixed and publicized at least 30 days in advance.
2. The National Board shall issue the voters rolls to the Electoral Commission until the deadline for submission of the lists of candidates.
3. Once the lists of candidates and the voters rolls have been submitted and checked for accuracy, they shall be placed at the notice boards at the headquarters of the National Board and of the Regional Directorates at least 20 days prior to the date of the election.
4. Written complaints against the voters rolls and the lists of candidates, addressed to the Electoral Commission

within 3 days, shall be decided at a meeting to be held immediately after the expiry of this period; the persons concerned may appeal in writing within 3 days to the General Council, which shall decide in the last instance.

5. Changes to the voters rolls and to the lists of candidates shall be immediately publicized as they are.
6. On the day of the election, a polling station shall be opened at the seat of each judicial district, open from 9:00 a.m. to 7:00 p.m., and all the ballot papers received at the polls during the election period shall be taken into account, as well as the postal votes received by the Electoral Commission until the closing time of the polls and which are sent in closed envelopes containing only the respective ballot papers, inside another envelope containing the identification and signature of the respective voting member.
7. Each member shall vote for the national bodies and for the bodies of the Regional Delegation on whose electoral roll he or she is registered.
8. The Electoral Commission shall meet on the day of the election and shall decide, in the last instance, all complaints against decisions made by the polling stations, which may be made orally, in writing, by fax, by telegram or by e-mail.

Article 39

Results

1. The results shall be counted in two separate ballots, one for the national bodies and the other for the Regional Directorates.
2. All the candidates on the list that obtains the majority of

the votes cast in the national ballot shall be elected to the Board of the General Assembly, the National Board and the Board of Auditors.

3. For the General Council, positions shall be filled separately for members with national representation and for members representing each of the Regional Delegations, in accordance with the principle of proportional representation and with the highest average method, from the votes cast in the national ballot, in the order in which the respective candidates appear on the lists.
4. All candidates from the lists that obtain the majority of the votes cast in the polls of the respective Regional Delegations shall be elected to the Regional Directorates.
5. Once the polls are closed, each polling station shall immediately count the respective votes and shall immediately send to the Electoral Commission the result of the respective counting, the minutes, the duly separated ballot papers, the possible complaints and any doubts about the validity or the meaning of a vote.
6. Once the ballot papers, the voters rolls and the minutes of the polling stations have been received, the Electoral Commission, after deciding on any complaints and doubts that may have been presented, shall count the postal votes and proclaim and publish the results.

CHAPTER V

INCOMES, ALLOCATION OF FUNDS AND ASSETS

Article 40

Revenues

1. The incomes of the ASJP shall be:

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- a) the income from membership fees and quotas paid by the associates;
 - b) interest on capitalized funds;
 - c) any donations, legacies or other income attributed to, or collected by, it;
 - d) those deliberated by the General Council or decided by the National Board, on its own initiative or on proposal of any associate;
 - e) the incomes from the sale of the Jurisprudence Collection, according to the protocol signed with the Social Solidarity Association "Casa do Juiz" or to the internal regulations of the Jurisprudence Group;
2. The National Direction shall decide on the form of the income collection.

Article 41

Allocation of funds

1. The ASJP income shall be used for the pursuit of its objectives, namely:
 - a) management and operating expenses;
 - b) the acquisition of goods, services or rights, for itself or for members;
 - c) the constitution of funds that may be created by proposal of the National Board, approved by the General Council.
2. Expenditures must be authorized by the National Board, which may delegate to any of its members the power for such authorization up to certain amounts.

Article 42

Assets

1. The ASJP assets shall consist of the movable and

- immovable property it owns, the rights it holds and the incomes provided for in the statutes.
2. Acts of acquisition, alienation or allocation of movable or immovable property subject to registration and the incomes from the Jurisprudence Collection shall be approved by the General Council upon proposal by the National Board after hearing the Board of Auditors.

CHAPTER VI

FINAL AND TRANSITORY RULES

Article 43

Forum

The court of Lisbon shall be competent for issues arising between ASJP and the members resulting from the application and interpretation of these statutes.

Article 44

Subsidiary rules

In all cases not provided for in the present statutes, the rules governing associations shall apply and, with regard to the electoral process, the Electoral Process Regulations of the High Council for the Judiciary.

Article 45

Continuation of ASJP commitments

The entry into force of the present statutes does not affect the continuation of the commitments undertaken by ASJP with the organisations of which it is a member.

Article 46

Drafting of internal regulations

Within three months of the first General Council, the latter, after hearing the National Board, shall appoint a committee to draw up the draft internal regulations for the functioning of the bodies referred to in article 4 above.

Article 47

Registration of new members

1. Within 20 days after the approval of these statutes by the General Assembly, the National Board shall ensure that a copy of these statutes is sent to all Judges.
2. Judges who are not associates and who request in writing their registration shall be immediately included in the voters roll.
3. The National Board, under the supervision of the Electoral Commission, shall ensure the organization and updating of the voters rolls.

Article 48

Early voting

1. After approval of these statutes by the General Assembly, early elections shall be scheduled to take place within 90 days, and the first Electoral Commission shall be composed of the outgoing General Assembly President, who shall chair it, two members appointed by the outgoing General Assembly and one representative appointed by each list, applying the provisions of article 37 above with the necessary adaptations.
2. Members who are up to date with their subscriptions, members whose fees have been paid in accordance with

article 10.7 above, and new members registered in accordance with article 47 above may take part in the early elections.

Article 49
Application

The amendments of the present statutes do not apply to the current national management bodies of the Association.

SOUTH AFRICA
The Judicial Officers' Association
of South Africa

CONSTITUTION

1. Name and Office

- a] The name of the Association shall be "The Judicial Officers' Association of South Africa" [hereinafter referred to as "the Association"].
- b] The office of the Association shall be located at the place or within the province where the President of the Association is stationed unless the Executive Committee determines otherwise.

2. Interpretation and Definitions

- a] This Constitution shall be interpreted and applied:
 - i] in conformity with all law relevant to the interpretation of statutes in the Republic of South Africa;
 - ii] unless the context otherwise indicates, in accordance with the meaning ascribed to equivalent terminology used in any law pertaining to judicial officers.
- b] In this Constitution, unless the context otherwise indicates
 - i] "the Association" means the Judicial Officers' Association of South Africa, a voluntary Association of Judicial Officers.
 - ii] "Judicial Officer" means any judicial officer appointed and holding office in terms of any law in force in the Republic of South Africa, but excluding any person

occupying that office in an acting, assistant or temporary capacity.

- iii] "member", unless the context otherwise indicates, includes a life member and an honorary member; provided that only ordinary members shall have voting powers.
- iv] "remuneration" means salaries, wages, bonuses, allowances [including legal, home owners' and motorcar financing allowance], payment for overtime, including the determination of bases and rates thereof, paid or owing to judicial officers in return for the execution of their assigned tasks.
- v] "the Journal" means a publication of the Association.

3. Legal Status

- a] The Association is and shall continue to be a legal entity that is distinct and separate from its individual members and it shall have the power to acquire, to hold and to alienate property of any description whatsoever. It shall have the capacity to acquire rights and obligations and has perpetual succession.
- b] All actions, suits or proceedings in law or any dispute, conciliation or arbitration shall be brought by or against the Association in the name of the Association, and the Executive Committee thereof may authorise any person or persons to act on behalf of the Association and to sign all such documents and to take all such steps as may be necessary to protect its interests in connection with any such actions suits, proceedings, dispute, conciliation or arbitration.
- c] The Association may institute any proceedings on behalf

of any judicial officer in respect of any work-related matter.

4. Powers and Objectives

The powers and objectives of the Association shall be to:

- a] promote a human rights culture and apply and uphold the Bill of Rights, insofar as its provisions apply, with regard to the appointment of office bearers and the pursuit of any of the objectives of the Association.
- b] promote reconciliation and unity amongst all judicial officers irrespective of race, gender, sex, status, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- c] redress past imbalances and to promote and facilitate the implementation of affirmative action on merit:
- d] study, discuss, promote, maintain and enhance any matter pertaining to the administration of justice in general and in particular, the independence of the judiciary and the administration of justice;
- e] study, discuss and promote all matters pertaining to the duties and welfare of judicial officers and recommend to and/or negotiate with the appropriate authorities such action as may be considered necessary;
- f] promote, without discrimination, favour or prejudice, any matter pertaining to the rights, interests, appointment, promotion, transfer, discharge, retirement or disciplinary steps against, or the welfare, working conditions and conditions of service, including remuneration of judicial officers;
- g] collect and publish information for the guidance of

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- judicial officers and the improvement of their skills, expertise and proficiency;
- h] create and promote uniformity of practice amongst judicial officers;
 - i] consider the problems, complaints and suggestions of individual members and to make representations and recommendations in this regard to any appropriate authority or to any other legislative or executive organ of state at any level of government;
 - j] arrange conferences and meetings of members for the exchange of information or views and discussion on all relevant matters affecting their rights, obligations and interests;
 - k] promote a wholesome, frank and amicable relationship between members inter partes and with any appropriate authority or body;
 - l] comment on proposed legislation and to offer suggestions in regard to desirable or necessary legislation and/or to proposed amendments to existing legislation;
 - m] establish and publish a Journal for the benefit of its members and/or interested persons;
 - n] acquire, alienate, dispose of, maintain, improve or alter any movable or immovable property of the Association;
 - o] borrow or raise money, and secure the payment thereof in such manner as the Association deems fit;
 - p] invest any moneys or assets of the Association not immediately required for any particular purpose in such manner and for such period as may be determined from time to time;
 - q] open a banking account in the name of the Association and to draw, accept, endorse, make and execute bills of

- exchange, promissory notes, cheques and other negotiable instruments connected with the affairs of the Association;
- r] institute, conduct, defend, compound, abandon or otherwise, any legal proceedings by or against the Association or any judicial officer concerning the affairs of the Association;
 - s] support and subscribe to any Institution, Society or Association whose aims or functions may be for the benefit of the Association or its members whether past or present, or allow affiliation of any body of persons representing a specific interest group whose aim is to enhance the inter partes relationship referred to in paragraph 4[k] above;
 - t] pay reasonable expenses in respect of or remuneration for services rendered to it or on its behalf, whether by any member, or any other person, body or institution whether rendered on a full-time, part-time, casual or other basis;
 - u] promote and maintain the dignity and status of the office of judicial officer;
 - v] undertake any act or measure that may be conducive to the attainment of the objectives of the Association.

5. Classes of Members and Qualification for Membership

5.1 The Association shall have the following classes of members:

- a] Ordinary members;
- b] Life members; and
- c] Honorary members.

5.2 The persons eligible for the various classes of membership shall be as follows:

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- a] all judicial officers may be admitted as ordinary members;
- b] on the approval of a majority of the Provincial Committees, life membership may be granted to any member of the Association who has retired as a judicial officer, whether or not he/she is sitting on an ad hoc basis, or who is unable to return to active duty because of disability, upon payment of a subscription to be determined by the Executive Committee from time to time providing, however, that such membership may be suspended or terminated by the Executive Committee after consultation with the Provincial Committees;
- c] any member of the Association who has retired as a judicial officer, whether or not he/she is sitting on an ad hoc basis, or who is unable to return to active duty because of disability shall be eligible for honorary membership, provided that all Provincial Committees shall be informed of such application and the majority are in favour of granting such membership and provided further, that such membership may be suspended or terminated by the Executive Committee after consultation with the Provincial Committees;

6. Admission of Members

- a] Anyone who seeks admission as an ordinary member of the Association, shall apply in writing in a form prescribed from time to time by the Executive Committee;
- b] Ordinary membership shall be conferred upon any applicant on approval by the relevant Provincial Committee; provided that in the event that an application

is rejected, such applicant may appeal to the Executive Committee.

- c] Every application for membership of the Association shall be lodged with the Secretary of the appropriate Provincial Committee, together with any subscription which may be payable with the application.

7. Subscriptions

- a] No subscription shall be payable by an Honorary member;
- b] The subscription for other members, and the terms of payment, shall be determined from time to time by the Executive Committee.

8. Cessation of Membership

Any member shall cease to be a member of the Association if:

- i] his/her resignation is submitted in writing to the Secretary of the Association;
- ii] his/her membership is terminated in terms of sub paragraph 9[c] below;
- iii] his/her subscription is more than 3 months in arrear;
- iv] he/she ceases to qualify in terms of paragraph 5.2[a] or [b] above.

9. Disciplinary Measures

Upon proper enquiry the Executive Committee may:

- a] dismiss complaints against a member or members of the Association;
- b] reprimand the member;
- c] suspend or terminate membership of a member, provided that such action shall be confirmed by a majority vote at the

Annual General Conference.

10. Office Bearers

a] The office bearers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer. They shall be elected at each Annual General Conference of the Association, and their terms of office shall take effect upon the adjournment of such Annual General Conference and shall continue until the election of their successors at the ensuing Annual General Conference.

b] i] The President shall preside at the Annual General Conference of the Association and at all meetings of the Executive Committee. In the absence of the President, the Vice-President shall do so. In the absence of both the President and Vice-President, the members present at a properly constituted Annual General Conference or the Executive Committee, as the case may be, shall elect a temporary presiding officer who shall have all powers which the President would have had, had the President been present and presiding. A presidential report shall be presented at the Annual General Conference and shall cover the activities of the Association during the President's tenure of office.

ii] The Secretary and the Treasurer shall also be the Secretary and Treasurer of the Executive Committee.

c] The President shall not in the first instance cast his/her vote at the Annual General Conference or at any meeting of the Executive Committee but, in the event of an equality of votes, he/she shall be entitled but not obliged to exercise a casting vote.

d] The President shall be an ex officio member of all Standing

and Special Committees, and as such, may vote at meetings of such Committees.

e] The Secretary and any persons appointed as Assistant Secretaries [neither of whom shall necessarily be a member of the Association, or a full-time employee of the Association] shall be the custodian of all records, archives and assets of the Association, and shall preserve and keep record of all transactions. The Secretary and/or the Assistant Secretary shall take minutes of meetings and send copies thereof to the Provincial Secretaries if so instructed. Their duties further comprise of all the secretarial duties pertaining to the Executive Committee and any other Committees, and in particular include:

i] the drafting and posting of all notices, correspondence and statements;

ii] the implementation of Committee orders and the presentation of all correspondence and reports to the relevant Committee; iii] arranging all conferences and meetings of members;

iv] drafting comments -

a] on proposed legislation;

b] on suggestions in regard to desirable or necessary legislation and amendment to existing legislation;

v] acting as a link between the Executive Committee, any other Committees and members; and

vi] promoting the aims and objectives of the Association.

f] The Treasurer shall collect subscriptions from the members of the Association and shall be the custodian of the monies of the Association, none of which shall be disbursed without the authority of the Annual General Conference or the Executive Committee.

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g] The Treasurer shall submit a financial report to the Annual General Conference for adoption or rejection, as the case may be, by majority vote. In the event of its adoption, everything done by the Treasurer during the Treasurer's tenure of office since last elected shall be taken to have the full approval of the Association. In the event of a rejection, the report shall be submitted to the Executive Committee for such action as it may deem fit and proper.

h] The funds of the Association shall be kept by the Treasurer in a banking institution. The choice of such banking institution or any branch shall be in the discretion of the Executive Committee.

i] By a majority vote, a Secretary, Treasurer and any other person acting in an honorary capacity, whose services to the Association are, in the opinion of the Executive Committee, deserving of compensation, may be voted an honorarium by that Committee.

j] The Secretary, Assistant Secretaries and Treasurer shall be stationed in the Province where the office of the Association is situated.

k] In addition to the above office bearers, representatives of the Provinces referred to in paragraph 11[b] shall be regarded as office bearers of the Association.

11. Provincial Committees

a] A Provincial Committee shall be established for each of the following Provinces:

i] EASTERN CAPE

ii] FREE STATE

iii] GAUTENG

iv] KWAZULU-NATAL

v] MPUMALANGA

vi] NORTHERN CAPE

vii] LIMPOPO

viii] NORTH WEST

ix] WESTERN CAPE

b] Each Provincial Committee may nominate any member to represent members in its Province on the Executive Committee, provided that:

i] each Provincial Committee may nominate not more than one such representative in respect of every 150 members or part thereof, in its Province;

ii] such representative's term of office shall commence at the Annual General Conference during any year in which such member is nominated and continues until the next Annual General Conference following the date of nomination.

iii] if a vacancy occurs during the term of office of such a nominated member to the Executive Committee the Provincial Committee shall have the power to co-opt any other member for the remaining period of office of such a member.

c] Every Provincial Committee shall consist of at least 5 [five] members who are stationed in the Province concerned. Each Province shall elect a Chairperson, Secretary and Treasurer at an Annual General Meeting of the members concerned. Each Provincial Committee shall have powers to co-opt members as in the case of the Executive Committee.

d] Every Provincial Committee shall call an Annual General Meeting before 30 June of each year and at such place as is decided upon by the Provincial Committee. At such a meeting, the members of the Provincial Committee for the following year shall be elected and the allocation of

subscriptions to any Regional Committee shall be determined, based proportionally, on the number of members within the Region. The procedure for convening such meetings, the voting procedure and election of a Chairperson shall, *mutatis mutandis*, be the same as that applicable at an Annual General Conference of the Association. All resolutions passed at an Annual General Meeting shall forthwith be submitted to the Executive Committee for consideration.

e] When a vacancy on the Provincial Committee arises, such Committee shall have the power to co-opt a member of the Association within that Province for the unexpired period of such vacancy.

f] Provinces may be subdivided into Regions after approval thereof by the Executive Committee. Recommendations for any sub-division shall be submitted to the Executive Committee by the Provincial Committee concerned.

g] The Executive Committee, after consultation with the all the Provincial Committees, determines the border of the respective Province and this can, if deemed necessary, be amended in like manner.

h] Every Regional Committee shall consist of at least 2 [two] members, including a Regional Chairperson and Secretary, who are stationed in the Region concerned and have been elected at a meeting of the Regional Committee. The Regional Committee shall have the power to co-opt members on the same basis as in the case of the Provincial Committee.

i] The procedure to be followed by the Regional Committees for convening meetings shall, *mutatis mutandis*, be the same procedure as that followed by a Provincial Committee. All

resolutions passed at a meeting of the Regional Committee shall be submitted to the Provincial Committee concerned, in order for the last-mentioned Committee to submit the resolution[s] to the Executive Committee for consideration.

j] A Regional Committee is entitled to depute one member to attend the Annual General Meeting of the Provincial Committee concerned. The costs for attending such meeting by a member shall be borne by the Association.

k] Meetings by members in Regions and Provinces shall take place as often as is determined by the Committees concerned, but not less than once per calendar year.

l] Regional Committees may convene an Annual General Meeting at such time and place as is decided upon by the Regional Committee, but not less than 30 days before the Annual General Meeting of the Province concerned.

m] By a majority vote, a Secretary, Treasurer and any other person acting in an honorary capacity, whose services to the Association are, in the opinion of the Provincial Committee, deserving of compensation, may be voted an honorarium by that Committee.

12. The Executive Committee

a] The Executive Committee shall consist of the President, Vice President, Secretary and Treasurer elected at the Annual General Conference as contemplated in paragraph 16, together with the members nominated by the Provincial Committees as provided for in paragraph 11[b].

b] A member shall not serve for more than two consecutive terms on the Executive Committee in the capacity of President of the Association.

c] The management and control of the affairs of the

Association shall vest in the Executive Committee which shall have full power and authority to do any act, matter or thing which could or might be done by the Association excepting such matters as are specifically reserved to be dealt with at a Special General Meeting or an Annual General Conference of the Association. In addition to the general powers and authorities conferred upon the Executive Committee, and without in any way limiting such powers and authorities, the Executive Committee shall have the following additional special powers namely, to:

- i] establish the Standing Committees of the Association, determine their duties and delegate authority to them;
- ii] organize the programme, agenda and entertainment for the Annual General Conference;
- iii] determine whether or not a person is a member in good standing of the Association;
- iv] determine the subscriptions and any special assessment to be paid by applicants for membership and by the members themselves;
- v] use the subscriptions, assessments and any other funds of the Association, including funds previously collected or designated for a special purpose, for any of the needs, or for the purposes of, the Association;
- vi] raise funds for the aims and purposes of the Association;
- vii] grant scholarships, bursaries and loans to persons engaged in the programme of legal training;
- viii] take all steps necessary to protect and to promote the remuneration, benefits and welfare of members;
- ix] report to the members of the Association on the proceedings of the Executive Meetings of the Association, in a manner to be determined by the Executive Committee;

- x] discuss with and if deemed appropriate, to provide assistance, support and legal representation, in the discretion of the Executive Committee, to those members under complaint by the public or otherwise;
- xi] acquire fixed property on behalf of the Association, and pass bonds over such property;
- xii] take all such steps as may be necessary in the interests of the Association and its members and to promote and attain the aims and objectives of the Association;
- xiii] fill vacancies on the Executive committee by the co-opting of a member for the remaining period of such vacancy in the Executive Committee;
- xiv] hold meetings of the Executive Committee at any time and place upon written notice by the Secretary with seven clear days' notice, or by any 7 [seven] members of the Executive Committee with fourteen clear days notice;
- xv] co-opt any member of the Association, whether on an ad-hoc basis or otherwise, where the Executive Committee deems it expedient for the attainment of any of the objectives of the Association; provided that such member shall not be an office-bearer of the Association and provided further that such member shall not be entitled to any vote.

13. Finance

- a] The financial year of the Association closes on the 31st of March each year.
- b] The Executive Committee shall cause proper financial statements to be kept, showing all the income and expenditure of the Association and all its assets and liabilities.
- c] The financial statements of the Association shall be

audited by an accountant who shall be appointed for that purpose by the Executive Committee.

d] Appropriate financial statements shall be prepared at the end of each financial year of the Association.

e] Any member of the Association may obtain a copy of the financial statements upon written request to the Secretary of the Executive Committee and upon payment of such fee as the Executive Committee may determine from time to time.

f] The monthly subscription fees due by a member shall be determined by the Executive Committee from time to time.

g] Subscriptions shall be allocated as follows:

i] Seventy per cent per month shall be paid into a fund known as the Executive Fund; and

ii] Thirty per cent per month to the various Provincial Funds of each Provincial Committee calculated proportionally, based on the number of members within the Province.

h] The Executive Committee may, with the approval of the majority of the members at the Annual General Conference of the Association, levy an additional amount in respect of subscriptions or by way of special assessment on members.

i] The Executive Committee shall exercise full control over the Executive Fund and the investments thereof. Funds may be utilised in respect of the affairs of the Association only, save as provided for in sub-paragraph [j] hereunder. With the approval of the Annual General Conference, funds may be used for any other purpose.

j] Each Provincial Committee shall exercise full control over its respective Provincial Fund, subject to the condition that such fund shall be utilised in respect of the affairs of the Association only : provided that, with the approval of the Executive Committee, given after consultation with the other

Provincial Committees or pursuant to a decision of the Annual General Conference, funds may be used for any other purpose.

k) Each Provincial Committee shall appoint a member to examine the books of account at the end of each financial year and to furnish a report on the correctness thereof.

l) The Executive Committee shall establish an Executive Reserve Fund in which will be deposited for investment purposes at beneficial interest rates, such funds as are in excess of the funds required for the Executive Fund and the Provincial Funds. The Executive Committee and the Provincial Committees are required to examine the funds under their control from time to time and to ensure that excess funds are transferred to the Executive Reserve Fund.

m) The Executive Reserve Fund shall be held as an asset of the Association and the capital thereof may be utilised only with the authority of the Annual General Conference of the Association. In case of emergency, should this arise, such funds may be utilised for a specific purpose with the approval of a two-third majority of the Executive Committee. The interest on the Executive Reserve Fund shall accrue to the Executive Fund.

n) Should a Provincial Fund require additional funds, the Provincial Committee concerned may approach the Executive Committee for a subsidy. In such cases the Executive Committee may, if the application is approved, subsidise the applicant from the Executive Fund or it shall approach other Provincial Committees with sufficient funds available, to render the assistance that is required.

o) Non-members of the Association who, with the authority of the Executive Committee, subscribe to the Journal of the

Association, shall pay such subscription fees as are fixed from time to time by the Executive Committee.

p] All subsidies, donations and grants to the Association and all other moneys or levies, shall accrue to the Executive Fund.

14. Signature on Documents

a] All cheques of the Association, shall be signed by any two of the Treasurer, Secretary of the Association or any other Executive Committee member appointed from time to time.

b] Any document to be signed on behalf of the Association, excluding ordinary correspondence and cheques, in order to be valid, shall be signed by any two of the President, the Vice-President, the Secretary or the Treasurer.

15. Election of Office Bearers of the Association

a] The President and Vice-President are elected on an annual basis in the following manner:

i] At the Annual General Meeting of the Provinces which shall be held before the Annual General Conference of the Association, one candidate shall be nominated as President and one as Vice-President by a majority of votes.

ii] Such nominations as well as the number of votes obtained by each candidate shall be lodged with the Secretary before the thirtieth calendar day prior to the Annual General Conference. The President and Vice-President shall be elected by a majority of the votes that were cast at the Annual General Meeting of each respective Province.

iii] After the election of the new President and Vice-President, the outgoing President shall, at the Annual General Conference, call for nominations for Secretary and

Treasurer.

b] If there is more than one candidate for any office of the Association, a secret ballot shall be cast by each member and the candidate receiving a majority of the votes shall be elected. If, however, no candidate has a majority, the candidate having the least votes, shall be eliminated from the balloting and voting shall proceed in the same fashion until a candidate has a majority, such candidate then being elected.

c] During nominations, a motion that nominations be closed for any office of the Association shall be permissible.

d] In the event that voting for any office of the Association proceeds by ballot, as provided for in this Constitution, three scrutineers shall be appointed by the President, or by the Chairperson presiding, for the election of office bearers, none of whom shall be a candidate for the office for which the balloting is called. The scrutineers shall count and tabulate the ballots and certify their findings to the President or the Chairperson under their respective signatures.

16. The Annual General Conference

a] The Annual General Conference of members of the Association shall be held at a time and place to be determined by the Executive Committee. No more than fifteen months shall elapse between Annual Conferences.

b] Notice of such Annual General Conference shall be given in writing.

c] Notice of the terms of any resolution to be proposed at an Annual General Conference, other than concerning ordinary or general business, shall be lodged with the Secretary at least 60 days before the date fixed for such meeting.

17. Special General Meetings

a] A Special General Meeting of the Association may be convened at the discretion of the President at such time and at such place as may be specified by him/her in a written notice of such meeting. The said notice shall be given to the Chairperson of each Province and shall provide for the meeting to be held on a date not earlier than the lapse of 30 [thirty] days calculated from the date of the notice, but not later than 45 [forty five] days calculated from the date of the said notice.

b] Upon written request lodged with the Secretary by at least 100 [one hundred] of the members of the Association for the holding of a Special General Meeting, the President shall, within 10 [ten] days of the receipt by the Secretary of the said request, convene such a meeting at a place and upon a date specified by him/her in the notice thereof. The Special General Meeting shall be held on a date not earlier than the lapse of 30 [thirty] days calculated from the date of the notice but not later than 45 [forty five] days from the said date.

c] At any Special General Meeting referred to in subparagraph [b] hereof, unless the President in his/her discretion otherwise permits, the only business that shall be discussed shall be that which has been specified in the written request lodged by the members concerned.

d] The provisions of this paragraph shall, *mutatis mutandis*, apply to a Special General Meeting that is called for in a Province, save that in the case of a written request by members of the Province, it shall contain the signatures of at least 10% [ten per cent] of the members of that Province.

18. Journal

- a] The Journal of the Association shall be issued at such intervals as determined by the Executive Committee.
- b] The Editor for the Journal shall be appointed by the Executive Committee of the Association. The Editor need not be a member of the Association. Any compensation paid or payable to the Editor of the Journal is to be decided by the Executive Committee.

19. Committees

19.1 The Standing Committees of the Association shall be:

a] THE EDUCATION AND RESEARCH COMMITTEE

Its duties shall be inter alia:

- i] to organise annual or semi-annual seminars for further education of judicial officers;
- ii] to organise any special seminars that may be required to deal with new legislation;
- iii] to research and report to the Executive Committee and/or the members on any legal or procedural matters that are referred to it by the Executive Committee;
- iv] to consider any other matters that are ancillary or related to the above;
- v] to make recommendations to the Executive Committee.

b] THE LABOUR RELATIONS COMMITTEE

Its duties shall be inter alia:

- i] to negotiate or liaise, on behalf of the Association or any individual member, with any person, association, body or institution, in connection with any matter pertaining to the objectives of the Association;
- ii] to research and prepare recommendations for the Executive Committee on remuneration, pension and all

other benefits;

iii] to consider matters related to judicial exchanges, rights, interests, appointments, promotions, transfers, discharge, retirements, misconduct, disciplinary steps, leave, sick leave, travel time, allowances, working conditions or any other matter related thereto;

iv] to promote and facilitate employee participation in decision making in the workplace and the effective resolution of disputes, primarily by way of conciliation;

v] to facilitate orderly collective bargaining and in particular, the determination of remuneration, terms and conditions of service, service benefits or any matter of mutual interest;

vi] to promote and facilitate freedom of association;

vii] to consider any other matters that are ancillary or related to the above.

viii] to make recommendations to the Executive Committee.

c] LEGAL MATTERS COMMITTEE

Its duties shall be inter alia:

i] to consider all matters relating to any court;

ii] to consider any other matters that are ancillary or related to the above;

iii] to make recommendations to the Executive Committee.

19.1.1 The President, acting on the advice of the Executive Committee may, as soon as is convenient after taking office, appoint a Chairperson for each Standing Committee. Each Chairperson shall appoint Committee members, the number of which shall be left to his/her discretion. Such Chairperson shall inform the President and the Secretary of the composition of the Committee within 30 [thirty] days of its appointment. The members of such a Standing Committee need not be members of the Association and shall in such

case not be entitled to any compensation.

19.2 In addition to the Standing Committees, the President, acting on the advice of the Executive Committee may appoint on the terms and conditions determined by him/her, any member or private person as a member of any Special Committee which in his/her opinion should be constituted for the purpose of attaining any of the objectives of the Association. The President may designate any such member as Chairperson.

19.3 A meeting of any Committee of the Association may be held at any time and place on the written notice of its Chairperson with 7 [seven] clear days' notice, but notice of any such meeting may be waived by any members of such Committee before such meeting.

19.3.1 If the Chairperson of any such Committee is not present at any meeting of any Committee, the members of the Committee shall elect a temporary Chairperson.

19.3.2 Members may nominate themselves as candidates for appointment to Standing or Special Committees.

19.3.3 The Chairperson of each such Committee shall at the Annual General Conference make a report on the activities of the Committee during the year in question, provided that the President may nominate any member to present such report on the relevant Chairperson's behalf at such Conference.

20. Quorum

a) A quorum of the Association at the Annual General Conference shall be the lesser of 100 or 10% of ordinary members.

b) A quorum of the Executive Committee shall be a majority

of the members of the Executive Committee.

c] A quorum of the Annual General Meeting of a Province whose provincial membership is above 60 shall be 20 members from the Province.

d] A quorum of the Annual General Meeting of a Province whose provincial membership is below 60 shall be 10 members from the Province.

e] A quorum of any other Committee shall be 2 members.

21. Proxies

a] Any representative of a Province as contemplated in paragraph 11[b] hereof shall be entitled to vote at any Annual General Conference or Special General Meeting of the Association by way of proxy.

b] Such proxy shall be given by any member of a Province by instrument in writing by which the representative of the Province contemplated in paragraph 21[a] hereof is appointed.

c] Any such member who has not revoked a proxy shall be precluded from voting at the relevant meeting.

d] Whenever any such representative at any meeting as aforesaid indicates to the Chairperson that he or she holds a proxy, it shall be deemed that a ballot has been called.

22. Votes of No Confidence

a] If the members at a duly convened and constituted Special General Meeting pass a vote of no confidence in the Executive Committee, including the President, the President shall resign and dissolve such Executive Committee and forthwith call for nomination and election of office bearers of the Association at such meeting.

b] If such members as aforesaid pass a vote of no confidence in the President, but not in the other members of the Executive Committee, the President shall resign.

c] If such members as aforesaid pass a vote of no confidence in the Executive Committee, excluding the President, the President may

i] resign; and

ii] shall in either case, dissolve such Executive Committee and forthwith call for nomination and election of office bearers of the Association at such meeting.

d] Nominations shall take place in the manner provided, *mutatis mutandis*, in paragraphs 11[b] and 15 hereof.

e] The President and Vice-President shall be elected by a majority of votes, subject to the provisions of paragraphs 15[b], [c] and [d], 17[d] and 21; Provided that the provisions of paragraphs 15[b], [c] and [d], 17[d] and 21 shall, *mutatis mutandis*, also apply where a motion of no confidence is introduced in respect of a Provincial Committee.

23. Agendas and Procedure

a] Any notice convening any meeting other than a Provincial Committee or a Regional Committee meeting shall be accompanied by a copy of the agenda defining the nature and order of proceedings.

b] No resolution shall be taken in respect of any subject or matter not appearing on the agenda or which is not relevant thereto, unless all the members present at the meeting aforesaid, agree to any such other proposed motion being put to the meeting.

c] All motions moved for adoption at the meetings aforesaid shall, prior to and for purposes of acceptance and

submission for discussion, be submitted in writing at such meeting.

24. Amendment or Repeal of the Constitution

This Constitution may only be amended or repealed if such amendment or repeal:

1. Has been discussed and approved by the majority of those present at a general meeting of a province proposing such a constitutional amendment or repeal,
2. The said province has through its secretary given at least 30 days' notice, before its scheduled date of provincial meeting, to the other 8 provinces,
3. The proposed amendment or repeal is adopted with a two-thirds majority at the subsequent Annual General Meeting.

25. Dissolution

a) The Association may be dissolved if:

- i) the dissolution is discussed at a General Meeting of all the Provinces;
- ii) two-thirds of the members at each such Provincial General Meeting, approve of the dissolution;
- iii) not less than 90 [ninety] days' notice to all members, of a General Conference convened by the Executive Committee for considering the dissolution of the Association, is given;
- iv) two-thirds of the representatives of the Provinces present at the General Conference so convened by the Executive Committee, indicate that their Provinces have approved of the dissolution at their General Meetings.

b) Members not present at the General Conference may vote by proxy or in the manner decided upon by the Executive Committee and explained in the notice convening the

General Conference.

c] Representatives of the Provinces and the Executive Committee present at the General Conference dissolving the Association shall decide by a simple majority of votes how the assets of the Association shall be dealt with.

d] If for any other reason the Association is wound up, liquidated or in any other manner dissolved and there remains after the satisfaction of its liabilities any assets whatsoever, the same shall be transferred to such other society or association with objects similar to those of the Association, as the members shall in General Conference decide.

26. General

Unless otherwise determined by the Executive Committee or as provided expressly or by necessary implication in this Constitution, the Executive Committee shall be the only official mouthpiece of the Association on any matter relating to policy.

UNITED STATES OF AMERICA

Federal Judges Association

CONSTITUTION

The Federal Judges Association is an independent, voluntary Association of Active, Senior, Retired and Resigned Judges of the United States Federal Courts established under Article III of the Constitution.

The purpose of this Association is to seek the highest quality of justice for the people of the United States, and pursuant thereto, the Association is authorized to do all things reasonable and necessary to:

- preserve and protect the ability of the Federal Judiciary to attract and retain the best qualified men and women for judicial service;
- preserve and protect the independence of the Federal Judiciary from intrusion, intimidation, coercion or domination from any source;
- formulate and carry out such other activities and program as are deemed necessary and appropriate in further of its stated purpose.

In the conduct of these programs and activities, the Association shall work in coordination and cooperation with the Chief Justice of the United States, the Judicial Conference of the United States, the American Bar Association, the National Bar Association, the various other Judges' Associations, Lawyers' Associations and public, quasi-public and private associations and organizations committed to this same purpose.

USA

In the conduct of its affairs, the Association shall take no action or position inconsistent with any formal action or position of the Judicial Conference of the United States unless and until approved as specified in Article VI B of the bylaws.

The Corporation shall be organized as a not-for-profit organization exclusively. Its activities shall be conducted in such manner that no part of its net earnings shall inure to the benefit of any member, director, officer or individual, and it shall engage in no business ordinarily carried on for profit. It shall not have the power to issue certificates of stock or declare dividends. In addition, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from Federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

In the event of dissolution any assets of the corporation will be donated to the American Judicature Society, an Illinois not-for-profit corporation whose purpose is "to Promote the Effective Administration of Justice.

BYLAWS

(As amended through December 2018)

I. Officers

A. The officers of the Association will consist of a president, a president-elect, a secretary, a treasurer and such other officers as may be authorized and elected by vote of the Board of Directors not to exceed eight and the immediate

past president. Officers will be elected for a term of two years on odd numbered years at the regularly scheduled meeting of the Board. The two-year term of an officer will commence the day following the regular Board meeting after an election on or about May 1. The two-year term will continue until the next Board meeting with an election to ensure that the Association is represented by officers. Officers, except the president, president-elect and the immediate past president, may serve a maximum of two successive two-year terms per position. The officers will also be members of the Board of Directors.

- B. The president will preside at all meetings, appoint the chair and members of all committees, except the elected members of the executive committee, and be responsible for the conduct of the business of the Association, coordinate the Association's efforts in legislative matters, and speak for the Association in public forums.
- C. The president-elect or, if the president-elect is unavailable, such other officer as may be designated by the Board of Directors, will perform the duties of the president in the president's absence.
- D. The secretary will prepare the minutes of all meetings of the Association and the Board. The secretary will also provide annual notice to circuit representatives of the expiration dates for each of their at-large directors' terms. The secretary, or a designee, will maintain the minute book, the Articles of Incorporation, the Constitution and Bylaws, and all amendments, and a roster of all members of the Board and their respective terms.

- E. The treasurer will maintain the funds, accounts and financial records of the Association and coordinate with any auditor or tax preparer.
- F. Any vacancy in any authorized office may be filled by a majority vote of the Board of Directors for the unexpired portion of the vacated term.

II. The Board of Directors

- A.1. Composition. The Board of Directors will consist of officers, members of the executive committee appointed by the president not to exceed four, members of the executive committee elected by the Board not to exceed five and at-large members from each circuit. In addition, each past president will serve as an *ex officio* member of the Board of Directors.
- 2. At Large Directors. The at-large directors will include at least one at-large director, but not more than four, elected from each federal judicial circuit. The Court of Appeals for the Federal Circuit, the District of Columbia Circuit and the Court of International Trade will each have one at-large director. The number of at-large directors for other circuits will be as determined from time to time by the Board of Directors. The at-large directors will be elected by the members of the Association within the circuit by a method determined by the circuit at-large directors, including but not limited to email, teleconference, equivalent ballot or by vote of the members at a circuit conference. The then-serving at-large directors of the Association within each circuit will schedule the election not later than 90 days before the expiration of an at-large director's term

and send the results of the election to the Secretary of the Association as soon as practicable. Each at-large director will be elected for a three- two-year term commencing on January 1 after an election.¹ No at-large director may serve for more than two consecutive terms, but an at-large director may be appointed by the president to the executive committee at any time or re-elected after a two year hiatus from the Board of Directors.

- B. Vacancies on the Board of Directors may be filled, until the next election from which circuit the vacancy arose, by the majority vote of the members of the executive committee. A director elected to fill a vacancy remains eligible for election to two full consecutive terms.
- C. The Board of Directors, upon the recommendation of the executive committee, is authorized to employ or engage one or more persons to carry out the purposes of the Association.
- D. Duties of Board of Directors Each member of the Board of Directors is required to attend board meetings, (including membership orientation, as appropriate), prepare and disseminate to members of the FJA within their circuit regular reports and other communications relating to Board meetings and business conducted, recruit new members, participate in leadership development and succession planning, serve on at least one Board committee or task force, discuss and support programs for the benefit of the Board and/or the FJA membership, and work to advance the objectives of the Association.

III. Committees

- A. Executive Committee. The executive committee will consist of the officers of the Association together with the directors (not to exceed five) who are to be elected by the Board, and the directors (not to exceed four) who are to be appointed by the president. Such non-officer directors will serve a two-year term to run concurrently with the president's term. Any member of the executive committee appointed by the president or elected by the Board is entitled to vote on all Board matters. The appointment of a non-Board member to the executive committee will not be counted against the allocation of directors for the appointee's judicial circuit. The executive committee is authorized to act for the Association. The executive committee will report all actions taken by it to the Board on at least an annual basis.
- B. Nominating Committee. A nominating committee will be appointed by the president and the names published to the Board no later than 90 days before a Board meeting with a scheduled election of officers and executive committee members. The nominating committee will propose the names of one or more persons for election to each office to be filled and for board of directors members for election, not presidential appointment, to the executive committee. The Secretary will provide the list of proposed names for election to each office to the Board at least 30 days before the Board meeting at which the election will occur.
- C. Standing Committees. The Standing Committees include a Communications committee; a Senior Judges committee; a Judicial Conference Liaison committee; a

Meeting committee; a Security committee; a Membership Development and Retention committee; a Judicial Independence committee; and a Long Range Planning committee. The president may also appoint such additional committees (e.g. Benefits, Legislative Liaison, International Rule of Law and others) as may be appropriate.

1. Appointment and Removal. The president will appoint the chairpersons and members of all committees to serve concurrent terms with that of the president who appoints them, unless otherwise provided in these bylaws. The president may remove a chairperson or a committee member at president's discretion.
 2. Chairpersons and Membership. Only Board members or officers may be committee chairs, except in exceptional circumstances as determined by the president. The president may appoint non-Board members to serve on a committee on recommendation or concurrence of the chairperson of the committee.
- D. Advisory Council. The president may appoint an advisory council which will consist of the past presidents of the Association and such other distinguished senior and other member judges as the president may appoint, which council will advise the officers, executive committee and the Board on policy matters. The chair of the advisory council will serve for a two-year term and will be that judge who, in the previous term, was immediate past president.
- E. A majority of the members of any committee will constitute a quorum for the transaction of business, unless

a greater number is required by the Bylaws or by vote of the Board. The act of a majority of the members present and voting at a meeting at which a quorum is present will be the act of the committee, unless the act of a greater number is required by the Bylaws or the Board.

IV. Agents and Representatives

The Board of Directors, or the Executive Committee at the Board's direction, may appoint agents and representatives or hire employees of the Association to carry out duties the Board may assign, consistent with these Bylaws and applicable law.

V. Meetings

A. In recognition of the need to minimize the imposition of financial burdens on the Association and its members, it is the policy of the Association that meetings of its committees and of the membership of the Association be kept to a minimum; and that to the extent reasonable and possible, and as a partial substitute for meetings, maximum use be made of electronic and telephonic communications in the transaction of Association business. However, in order to insure adequate opportunities for meetings of its committees and membership essential to the free and open exchange of ideas and development of Association policy, the following meetings will be held at the designated places and times:

1. The executive committee will meet at least annually at a time designated by the president.

2. The Board of Directors will meet at least annually at a time designated by the executive committee. The president, with the concurrence of the executive committee, may call a special meeting of the Board of Directors.
 3. Meetings of the membership may be held at such times and places as are designated by the Board of Directors. For a meeting of the Board of Directors, a quorum will consist of one-third of the members, plus at least two members of the executive committee.
- B. Each written act required by these Bylaws, including mailing, notice, nomination, voting or other communication, may be accomplished by electronic means including, but not limited to, email or facsimile.

VI. Dues

Annual dues will be in an amount fixed by resolution of the Board of Directors or of the executive committee upon authorization by the Board of Directors.

VII. Voting and Resolutions

- A. Except as provided in the Constitution, action taken at any meeting of the executive committee, Board of Directors or the membership will be by vote of a majority of the members present and voting. Voting by mail, email and other electronic means will be acceptable for votes of the Board of Directors, the executive committee or the membership.
- B. Each person who is qualified to be a member of the Association and who is current in the payment of the required dues is a member of the Association and is

- entitled to vote. Each member is current in dues who is not more than 60 days delinquent in the payment of dues.
- C. No resolution will be presented or published as a resolution of the Association unless adopted by at least a two-thirds vote of the members of the Board voting on the resolution. Where any action or position of the Association is inconsistent with, or in opposition to, a position taken by Judicial Conference of the United States, such action or position will not be publicized until the executive committee of the Association has made a reasonable effort to reconcile any such disagreement or inconsistency.
 - D. The president is authorized to transmit resolutions adopted in accordance with these provisions to any appropriate person or organization.

VIII. Amendments

- A. The Constitution may be amended by vote of not less than a majority of all members of the Association. Notice of proposed amendments will be given to all members by mail, email or other electronic means not less than 30 days before the vote on the amendment(s).
- B. These Bylaws may be amended by vote of not less than two-thirds of the Board of Directors. Notice of proposed amendments must be given to all members of the Board of Directors by mail, email or other electronic means not less than 30 days before the vote on the amendment(s).

IX. Indemnification of Directors, Officers and Agents of the Association

The Association will indemnify, to the extent permitted by Illinois law, any and all of its directors, officers and members against expenses actually and necessarily incurred by them in connection with the defense or settlement of any action, suit or proceeding in which they are made parties by reason of being or having been a director, officer or member of the Association. Such indemnification does not apply when such person is adjudged in such action, suit or proceeding to be liable for willful misconduct in the performance of duty and to such matters as may be settled by agreement predicated on the existence of such liability.

X. Records

The President, with the approval of the Board of Directors of the Association, will designate a procedure for the retention of those records the Board of Directors designates to be kept as the permanent records of the Association.

XI. Failure to Pay Dues

Any member who fails to pay dues for the current year will be dropped from the membership roll but will be reinstated upon payment of dues for the current year. Officers and members of the Board of Directors and committee chairs must be members in good standing of the Association.

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Opinion No. 23 (2020) The role of associations of judges in supporting judicial independence

I. Introduction

1. In accordance with the mandate given to it by the Committee of Ministers, the Consultative Council of European Judges (CCJE) has prepared the Opinion on the role of associations of judges in supporting judicial independence.

2. This Opinion has been prepared on the basis of previous CCJE Opinions, the CCJE Magna Carta of Judges (2010) and relevant instruments of the Council of Europe, in particular the European Charter on the Statute for Judges (1998) and Recommendations of the Committee of Ministers CM/Rec(2010)12 on Judges: Independence, Efficiency and Responsibilities and CM/Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe, Report of the European Commission for Democracy through Law (Venice Commission) on the Freedom of Expression of Judges (CDL-AD(2015)018), Common Guidelines on the Freedom of Associations of the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). It also took into account the UN Basic Principles on the

Independence of the Judiciary, the Bangalore Principles of Judicial Conduct, the Universal Charter of the Judge of the International Association of Judges, the first report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of 21 May 2012 (A/HRC/20/27) and the third report of 24 June 2019 of the UN Special Rapporteur on the independence of judges and lawyers, which deals with the exercise of freedom of expression, association and peaceful assembly by judges and prosecutors.

3. The Opinion also takes account of the replies of the CCJE members to the questionnaire on the role of associations of judges in supporting judicial independence, and of the summary of these replies and the preliminary draft prepared by the expert appointed by the Council of Europe, Judge Gerhard REISSNER¹.

II. Scope of the Opinion

4. In 12 of the 35 member States, which answered the questionnaire, there is only one association of judges. In the majority of those member States, there is more than one association.

5. The survey of the member States showed that there is a great variety of associations of judges. Their qualifications for membership are different, their objectives diverge, and their size and representativeness vary greatly.

¹ Judge REISSNER was the President of the CCJE in 2012-2013, and a long-standing member of the CCJE Working Group.

6. Some associations are open to judges of a certain court level only, e.g. Supreme Court judges sometimes have their separate association. Others are composed of judges of a certain specialisation. The most common associations of this type are separate associations of judges of administrative courts. There are also women judges' association². However, in most cases, associations allow all judges to become members.

7. Membership of all types of associations is voluntary. Therefore, the size of the association as far as the number of members is concerned may be quite different and - what is even more important - the representativity of an association, which is the ratio of the judges who are members of the association compared to all judges who could be members of that association, varies considerably.

8. Associations of judges may have legal personality. Most of them are established under a law on civil associations. They can also be constituted as informal groups of judges.

9. All associations of judges provide a network and platform to exchange and communicate between their members. The main objectives of the vast majority of associations are to promote and defend the independence of judges and the rule of law, and to safeguard the status and adequate working conditions of judges. Other important objectives are the training of judges, ethics of judges, and contributing to

² The existence of women judges' associations has been reported by Bosnia and Herzegovina, Italy, Slovakia, Ukraine and the United Kingdom.

judicial reforms and to legislation.

10. For the purpose of this Opinion, associations of judges are self-governing non-profit organisations with or without legal personality composed of members who voluntarily apply for membership.

11. In the majority of associations, membership is open to judges including, in most cases, also retired judges. In some associations, trainee judges and judicial assistants could also become members. In some associations, especially if there is a common career for judges and prosecutors, prosecutors can also be members.

III. International and European framework

12. The Universal Declaration of Human Rights³ the International Covenant on Civil and Political Rights (ICCPR)⁴ and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁵ grant everybody the right to associate, that is the right to form and to join associations.

13. As all individuals, judges enjoy these fundamental rights, which are protected by the above-mentioned documents⁶. In

³ Universal Declaration of Human Rights adopted by the UN General Assembly on 10 December 1948, Article 20/1.

⁴ International Covenant on Civil and Political Rights adopted by the UN General Assembly on 16.12.1966.

⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (of 4.11.1950), Article 11 /1.

⁶ CCJE Opinion No. 3 (2002) on the principles and rules governing

exercising their right to freedom of peaceful assembly, judges should bear in mind their responsibilities and avoid situations which could be regarded as being incompatible with the authority of their institution or inconsistent with their duty to be, and to be perceived as, independent and impartial⁷.

14. The right to associate is not only in the interest of a judge personally. As regards judges, this right is in the interest of the whole judiciary as well. The right for judges to associate is explicitly granted in the UN Basic Principles for the Independence of the Judiciary⁸, the Bangalore Principles of Judicial Conduct⁹ and the Universal Charter of the Judge¹⁰.

15. In Europe, the right to form associations of judges was further developed in 1998 by the European Charter on the Statute for Judges¹¹ and in 2010 by Recommendation (2010)

judges' professional conduct, in particular ethics, incompatible behaviour and partiality, para 27.

⁷ Compare also with the third report of the UN Special Rapporteur on the independence of judges and lawyers on the exercise of freedom of expression, association and peaceful assembly by judges and prosecutors, 24 June 2019, Recommendation 107.

⁸ United Nations Basic Principles on the Independence of the Judiciary (endorsed by the General Assembly on 29.11.1985) para 9.

⁹ Bangalore Principles of Judicial Conduct, Principles 4-6.

¹⁰ Universal Charter of the Judge (adopted by the IAJ on 14.11.2017) Article 3/5.

¹¹ European Charter on the Statute for Judges: principles 1.7 und 1.8.

12 of the Committee of Ministers of the Council of Europe on Judges, Independence, Efficiency and Responsibilities (Recommendation (2010)12)¹² and by the CCJE Magna Carta of Judges (Fundamental Principles)¹³. The European Charter underlines the contribution of associations of judges to the defence of the rights which are conferred on judges by their status, Recommendation (2010)12 echoes this and names the most central element of a judge's status, which is independence, and adds as an additional task the promotion of the rule of law. The Magna Carta of Judges addresses this objective as "defence of the mission of the judiciary in the society". Such developments in terms of broadening the tasks can also be seen when analysing the objectives of associations of judges, where today more and more the focus on the status of judges is accompanied by an equally strong awareness of raising regard for the rule of law.

IV. Rationale and objectives of the associations of judges

16. Judges are basic cornerstones within States built on democracy, the rule of law and human rights¹⁴. It is a logical consequence of this role that the above-mentioned European standard-setting documents envisage, and the statutes of many associations of judges express as central goals, two overriding objectives: 1) establishing and defending the

¹² Recommendation (2010)12, para 25.

¹³ CCJE Magna Carta of Judges (Fundamental Principles) (17.11.2010), para 12.

¹⁴ Regarding the role of the judiciary, see CCJE Opinion No. 18 (2015) on the position of the judiciary and its relations with the other powers of state in a modern democracy.

independence of the judiciary; 2) fostering and improving the rule of law. Both objectives foster the effective enjoyment of the fundamental right to a fair trial by an independent and impartial tribunal set forth in Article 6 of the ECHR.

17. The first objective for an association of judges of establishing and defending independence encompasses among other factors defending judges and the judiciary against any infringements of independence, claiming sufficient resources and satisfactory working conditions, aiming for adequate remuneration and social security, rejecting unfair criticism and attacks against the judiciary and individual judges, establishing, promoting and implementing ethical standards, and safeguarding non-discrimination and gender balance.

18. The second objective for an association of judges of fostering and improving the rule of law encompasses among other factors contributing to training, exchanging and sharing knowledge and best practices, contributing to the administration of justice in conjunction with those who are responsible for it, contributing to reforms of the justice system and law making, fostering the knowledge and information of the media and the general public about the role of judges, the judiciary and the rule of law.

19. The objectives mentioned so far are not exclusively objectives of associations of judges. Several other actors within and outside the justice system play a role in reaching them. To succeed, mutual respect, openness, support and co-operation will be helpful.

20. Associations of judges can also facilitate meetings with

representatives of civil society who are able to express society's expectations of the justice system and the administration of justice¹⁵.

21. An obvious objective of an association of judges is the creation of a network among its members. It brings together judges who exercise their tasks on their own or in a panel of judges, having nevertheless common interests and needs. Providing the opportunity of dialogue and critique between judges helps to improve independence by self-criticism from within the judiciary and to develop a strong value-based justice system. Being together in an association leads judges to an exchange of experience and best practices¹⁶. This is most fruitful in the case when judges of different court levels and jurisdictions come together. Associations of judges may also be the place for deepening the knowledge of specialised judges and in that way contributing to the consistent application of the law. And last, but not least, associations of judges help in developing a common spirit for the independence of the judiciary, human rights and the rule of law.

¹⁵ CM/Rec(2010)12, para 20.

¹⁶ Like in the case of exchanges among judges of the same court since in many member States, meetings among them are held aiming "to disseminate legal developments in case law and good professional practice", see the CEPEJ report on "Breaking up judges' isolation - Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation" of 6 December 2019, CEPEJ(2019)15, p. 8.

22. Associations of judges also facilitate transborder cooperation and enable exchanges with associations in other member States. They associate also at European level through a number of European judicial associations and organisations. In this way, national associations of judges open the door for international exchange of experience for their members, and they play an important role in disseminating European standards within the national communities of judges.

23. Based on the above-mentioned important aspects of associations of judges and their significance for supporting the core values of judicial systems in member States, the CCJE considers it highly desirable that in every justice system at least one such association of judges exists.

V. How associations of judges may reach their objectives

A) Within the judiciary

24. In fostering and defending the independence of judges and the judiciary, associations of judges have to carry out a wide range of activities. The independence of an individual judge requires an independent judiciary¹⁷. Independence precludes not only influence from outside but also from within the judiciary¹⁸. Associations of judges can often deal with threats, unfair criticism and attacks. But it is much more difficult to counter undue interference in the form of

¹⁷ CM Recommendation (2010)12, para 4.

¹⁸ ECtHR *Parlov-Tkalcic vs. Croatia*, No. 24810/06, para 86, *Agrokompleks vs. Ukraine*, No. 23465/03, para 137 et alt.

decisions by competent authorities influencing the career of judges (appointment, promotion, transfer, disciplinary and evaluation procedures and so on) or of all kinds of decisions regarding court administration.

25. The competence for such decisions is entrusted to Councils for the Judiciary, court administration bodies, presidents of courts, and sometimes even to the executive power (the Government or the Minister of Justice). To achieve their objectives, associations of judges therefore have to be in contact with, and address, these bodies.

26. Such contacts should be based on openness, mutual respect for their respective roles and jurisdictions and willingness to listen to each other's arguments. Associations of judges should not intervene in career decisions, but they can monitor whether the competent actors follow the correct procedure and apply the correct criteria.

27. Court administrators should be aware that associations of judges not only transmit the position of their members, but they are a melting pot of the experience of their members. Very often, it is practitioners who know best what is needed in practice. The CCJE has recommended that bodies of judges of a court should advise the court president¹⁹. In a similar way, associations of judges might also play such an advisory role vis-a-vis court administrators or court administration bodies of all levels.

¹⁹ CCJE Opinion No. 19 (2016) on the role of court presidents, para 19.

28. Especially at the level of the court administration, which is responsible for adopting various directives and regulations, the involvement of associations of judges as regards strategic objectives and important matters of general application might be fruitful and advisable.

29. In the majority of member States, decisions on the career of judges and/or the administration of courts are entrusted to the Councils for the Judiciary²⁰. Their general mission is to safeguard the independence of the judiciary and of individual judges and the rule of law²¹. Thus, the tasks of the Councils for the Judiciary and the overriding objectives of associations of judges coincide. Many times, there will be conformity of views, but different opinions may nevertheless arise between associations of judges and the Councils for the Judiciary, the latter usually having a mixed composition of judges and non-judges. An open exchange of opinions should take place in such situations.

30. In its search for best practices, the CCJE learned that in two member States ²², there are consultative councils consisting, *inter alia*, of representatives of associations of judges and prosecutors where matters regarding their professional interests, including their status, working conditions, remuneration and other such matters, are discussed and non-binding recommendations on relevant

²⁰ CCJE Opinion No. 10 (2007) on the Council for the Judiciary at the service of society, para 42.

²¹ Ibid, paras 8ff and 41f.

²² Belgium (Conseil consultatif de la magistrature), Bulgaria (Partnership Council).

legislative amendments are prepared. The CCJE recommends such initiatives.

31. The CCJE has taken note that in several member States, the association of judges has a certain influence on the selection of members of the Council for the Judiciary either by having the right to forward an opinion on candidates²³, supporting candidates who need a certain number of colleagues proposing them²⁴, having the possibility of nominating judges²⁵ or a legal duty to nominate candidates²⁶, or having a legally based formal position regarding selection²⁷, or even electing members themselves²⁸.

32. Provided that it does not infringe the independence of the work of the Council for the Judiciary, such participation in the selection of its members could be welcomed. Care must be taken, however, that such a system does not lead to the politicisation of the election and the following work of the Council. In any case, there should be no discrimination and members of an association of judges should be free to become members of a Council for the Judiciary.

33. Many associations of judges are involved in the training of judges either by organising training or developing

²³ Bulgaria.

²⁴ Romania, Spain.

²⁵ Norway (proposal of judges members of Appointment Board), Slovakia (proposal like every civic association).

²⁶ Azerbaijan (two nominations for each of seven judges members positions).

²⁷ The Netherlands.

²⁸ North Macedonia (president and one member and deputies).

training materials and training facilities themselves²⁹, by providing experienced trainers or at least by forwarding recommendations to the institution in charge of organising the training. The CCJE, in its Opinion No. 4 (2003) on appropriate initial and in-service training for judges at national and European levels, indicates that the judiciary should play a major role in, or itself to be responsible for, organising training, and that training should not be entrusted to the executive or legislative powers³⁰. The involvement of associations of judges, which are close to the needs and practical experience of their members, is therefore very appropriate.

34. Ethical principles of professional conduct should be drawn up by judges themselves³¹. The fact that judges voluntarily associate and that there is a forum for exchange and debate guarantee a strong commitment on the part of the judges to any principles of conduct drawn up by associations of judges³², or development of such principles

²⁹ Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Germany, Greece, Lithuania, Montenegro, North Macedonia, Poland, Romania, Russian Federation, Slovenia, Spain, Switzerland, Ukraine, United Kingdom.

³⁰ CCJE Opinion No. 4 (2003) on appropriate initial and in-service training for judges at national and European levels, para 16, see also European Charter on the Statute for Judges, para 2.3.

³¹ CCJE Opinion No. 3 (2002) on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality, paras 48 lit ii and 49 lit iii; see also Recommendation (2010)12, para 73.

³² There are codes of ethics elaborated by associations of judges in

where associations of judges are at least intensively involved³³.

35. For the same reasons, associations of judges are also well placed to establish a body to advise judges confronted with a problem related to professional ethics or the compatibility of non-judicial activities with their status³⁴.

36. In some member States, associations of judges represent judges in disciplinary proceedings if they request representation. There can be no objection to judges' associations representing their members in disciplinary proceedings and contributing to ensuring a fair procedure, especially if such proceedings are abused in order to orchestrate the removal of certain judges. But care must be taken to avoid any appearance that associations of judges are protectors of judges guilty of misconduct. Fostering a credible accountability of judges and of the judiciary is an important task of associations of judges.

Austria, Bulgaria, Croatia, Denmark, Finland, Iceland, Italy, Malta, The Netherlands, Norway, Slovenia, Spain, Switzerland.

³³ Other involvement of association of judges in establishing ethical standards: Azerbaijan, Belgium, Estonia, Germany, Ireland, Lithuania, Luxembourg, Montenegro, North Macedonia, Romania, Slovakia, Sweden, Turkey, Ukraine, United Kingdom.

³⁴ CCJE Opinion No. 3 (2002) on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality, para 49 lit iv and Recommendation (2010)12, para 74.

B) In relation to other powers of state

37. The CCJE considers that associations of judges should avoid orienting their activities according to the interests of political parties or candidates for political office, and they should not involve themselves in political issues which are outside of their objectives.

38. Associations of judges represent the experience and opinion of judges, and they need ways to forward their considerations and proposals to the other powers of state. The CCJE agrees with the observations in the explanatory memorandum to Article 1.8 of the in the European Charter on the Statute for Judges that “judges should be associated in the determination of the overall judicial budget and the resources earmarked for individual courts, which implies establishing consultation or representation procedures at the national and local levels. This also applies more broadly to the administration of justice and of the courts” and that “consultation of judges by their representatives or professional associations on any proposed change in their statute or any change proposed as to the basis on which they are remunerated, or as to their social welfare, including their retirement pension, should ensure that judges are not left out of the decision-making process in these fields”.

39. The Committee of Ministers of the Council of Europe has considered that “participatory democracy, based on the right to seek to determine or to influence the exercise of a public authority’s powers and responsibilities, contributes to representative and direct democracy and that the right to civil participation in political decision-making should be

secured to individuals, non-governmental organisations (NGOs) and civil society at large”³⁵. In relation to non-governmental organisations, the Committee of Ministers acknowledged “the essential contribution made by non-governmental organisations (NGOs) to the development and realisation of democracy and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities”³⁶. NGOs should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation³⁷.

40. The CCJE is convinced that these possibilities of participation should also be entrusted to associations of judges, although they are not organisations which represent civil society, but organisations, the members of which are holders of positions within the third power of state. The CCJE, in its Opinion No. 18 (2015) on the position of the judiciary and its relations with the other powers of state in a modern democracy, provides guidance as far as the discussion with other powers of state³⁸, the dialogue with the

³⁵ Guidelines for Civil Participation in Political Decision Making, CM (2017) 83, preamble.

³⁶ Recommendation CM/Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe, preamble, para 2.

³⁷ *Ibid.*, para 77.

³⁸ CCJE Opinion No 18 (2015) on the position of the judiciary and its relations with the other powers of state in a modern democracy, para 32.

public³⁹, and the need for restraint in the relations between the three powers⁴⁰ are concerned. This Opinion should in a similar way be used as a source of guidance as regards the relations between judges' associations on the one hand, and the legislative and executive powers on the other hand.

41. The CCJE endorses the participation of associations of judges in the legislative procedure in the case of draft laws regarding the justice field which are put forward by the executive power. When reform commissions or similar strategic project groups are established, representatives of associations of judges nominated by their association should be involved. More generally, the opinion of associations of judges should be requested and considered by the executive power at all levels in respect of judicial reforms and projects including budgetary issues and the allocation of resources, working conditions and all aspects of the status of judges.

42. In some member States, the formal participation of associations of judges in the procedure of drafting and amending laws is ensured by formal regulation by law or by-law⁴¹. In several other member States, this is at least steady practice⁴². The CCJE welcomes practice which provides associations of judges with the possibility to consider and comment on intended legislation in matters connected with

³⁹ Ibid., para 33.

⁴⁰ Ibid., para 40 and paras 53 to 55.

⁴¹ Austria (as regards the ordinary courts), Estonia, Germany, Greece, Iceland, Montenegro, The Netherlands, Romania, Slovakia.

⁴² Finland, Italy, Poland, Switzerland.

the status of judges and the administration of courts, for which an appropriate time should be provided and the results of which should be taken seriously into consideration. At the same time, associations of judges should stay out of politically controversial subjects outside their objectives.

43. The CCJE sees it as an essential task of associations of judges to engage responsibly in the search for possibilities of improving further the justice system and strengthening the rule of law.

C) In interaction with society at large

44. Associations of judges are particularly well placed to play a role in informing the media and the general public about the work and priorities of the judiciary, including the duties and powers of judges, and the role of the judiciary and the other powers of state in a democratic state governed by the rule of law.

45. The CCJE notes with satisfaction that many associations of judges contribute in a significant and effective manner to measures aimed at fostering the relations and the understanding between the judiciary and the public, such as court education programmes, information materials, open court events, public debates, presentations, other outreach programs etc.⁴³ Such measures are most effective if they are

⁴³ CCJE Opinion No. 7 (2005) on justice and society, chapter A: Relations of the courts with the public, paras 10 to 20, and CCJE Opinion No. 6 (2004) on fair trial within a reasonable time and

exercised by those who work in the system. Associations of judges should therefore involve themselves in these activities. It would also appear to have become more common that associations of judges organise conferences, exercise pro-active media policies and make use of social media in their work, all steps that the CCJE welcomes.

46. Associations of judges sometimes work together with NGOs in the pursuit of certain objectives. This may improve the likelihood of achieving such shared goals, provided that any politicisation is avoided.

VI. What is needed for associations of judges to fulfil their tasks

A. General guidelines

47. In 2014, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) adopted Joint Guidelines on Freedom of Association⁴⁴ (hereafter Guidelines on Freedom of Association), which deal with the fundamental right to form and join associations. The CCJE agrees with these Guidelines. Most of the standards which are laid down in that document can also be applied for associations of judges.

48. In particular, the CCJE recalls the following standards:

judge's role in trials taking into account alternative means of dispute settlement, chapter A: Access to justice, paras 11 to 18.

⁴⁴ Venice Commission and OSCE/ODIHR Joint Guidelines on the Freedom of Association, VC CDL-AD (2014)046 resp. OSCE/ODIHR Legis Nr. GDL-FOASS/263/2014.

- a) everyone is equally entitled to the right to associate⁴⁵;
- b) formation and registration (where applicable) should not be unnecessarily burdensome or discouraging⁴⁶;
- c) the principle of self-government should be respected and enabled⁴⁷, which means among other things that any influence from outside on the objectives and on their implementation, on the internal structure⁴⁸ and the selection of the officers of an association of judges⁴⁹ should be forbidden;
- d) the possibility to be involved in a transparent law-making process and dialogue⁵⁰ and to comment on state reports to international actors should be granted⁵¹;
- e) a termination or suspension of activities should be possible only in very exceptional limited cases⁵² and should be reviewed by an independent tribunal⁵³;
- f) the use of new technologies should be allowed as it is for everyone; surveillance measures which specifically aim to observe associations and blocking of websites should be forbidden⁵⁴.

⁴⁵ Ibid., paras 122 ff.

⁴⁶ Ibid., para 151.

⁴⁷ Ibid., paras 169 and 171.

⁴⁸ Ibid., para 175.

⁴⁹ Ibid., para 174.

⁵⁰ Ibid., paras 183 and 184.

⁵¹ Ibid., para 186.

⁵² Ibid., paras 244, 245, 251.

⁵³ Ibid., paras 244 and 256.

⁵⁴ Ibid., paras 265, 270, 271.

B. Special position of judges

49. Regarding associations of judges, it seems necessary to consider some features stemming from judges' special position and tasks. Judges have to be independent and impartial. They have not only to be independent and impartial but also to be seen as such. Judges form the judiciary, which is one of the three powers of the state, but it is a power which is vested in individual judges or their panels.

50. For the judiciary as a state branch of power, it is not as easy as it is for the executive or the legislative powers, both streamlined by political parties and hierarchies, to constitute a common will and to communicate in a united way with the other powers, the media and society at large.

51. Judges also enjoy the fundamental right of freedom of expression⁵⁵, although individual judges are limited by rules of confidentiality regarding their cases and other information when it comes to issuing statements and expressing their thoughts.

52. The impact of the statement of one judge certainly has limited effect. Associations of judges can contribute to remedy these inherent disadvantages in two ways. They can help to find a common position and they can convey this position effectively to outside actors.

53. If there is more than one association of judges within the

⁵⁵ ECtHR judgments in *Baka v. Hungary*, 23 June 2016; *Harabin v. Slovakia*, 20 November 2012; see also Article 11 of the ECHR.

justice system, associations of judges sometimes have different positions with regard to certain common problems. Although pluralism enriches the democratic debate on justice, the CCJE welcomes putting efforts into finding a common position on important issues in order to have a strong impact on other actors within and outside the justice system.

54. The CCJE recognises the importance and value of associations of judges. They have the potential to significantly contribute to the rule of law in the member States even if the above-mentioned features of associations composed of judges result in special limitations and awareness.

55. The CCJE is convinced that the requirement for associations of judges to be independent and self-governing bodies is an essential element which, on the one hand, is an aspect of the fundamental right to form and join associations, but is also closely linked to the independence of judges and the judiciary and the principle of division and balance of state powers. Although associations of judges are not the bearers of these constitutional rights, in practice, pressure and influence can indirectly be put on judges and the judiciary if influence on associations of judges is exercised.

56. Therefore, it is absolutely necessary that the objectives, internal structure, membership, and selection of officers of associations of judges are free of external influence or control.

57. Membership of an association should not have any influence on the career of judges, and it should offer neither

advantages nor disadvantages. Members should not be obliged to disclose their membership⁵⁶, thereby being subjected to an interference in their right to privacy concerning such sensitive data. Considering that associations of judges protect their interests in this regard, membership data must be treated like that of trade unions, for which disclosure is excluded⁵⁷. Even if regulations require judges to declare assets and interests in order to make transparent possible conflicts of interest, that cannot include declaring the membership in associations of judges, because there is no conflict of interest between such membership and the exercise of the judicial functions.

C. Resources and governance

58. Depending on the range of objectives and means foreseen to implement them, associations of judges need resources to different extents. Membership fees are the primary source of income for most associations. The fees should not be discriminatory or prohibitive and thereby risk excluding judges who cannot afford them.

59. Often, additional financial or other equipment will be necessary. The CCJE endorses the demand in the Guidelines

⁵⁶ See CCJE Bureau's Opinion on the Amendments of 11.8.2017 of the Bulgarian Judicial System Act of 2.11.2017 (CCJE-BU(2017)10), paras 10 to 16.

⁵⁷ *Ibid.*, para 13, and International Labour Organisation (ILO) Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Fifth (Revised) Edition, 2006, para. 866.

on Freedom of Association that “associations shall have the freedom to seek, receive and use financial, material and human resources, whether domestic, foreign or international, for the pursuit of their activities”⁵⁸. Whatever funding is available, it must be transparent and must not impair or give the impression of impairing the independence of associations of judges.

60. Many associations earn some income from publications, training activities, organising seminars, conferences and other events or participating in national or international projects. Others benefit from their assets, from donations, legacies and subsidies. If such additional sources of income are used, utmost care has to be taken that the independence of the association is not infringed and that not even the appearance of influence on the activities of the association arises. This also has to be considered if the support is provided from the state budget and is based on certain conditions. Spending public money out of the state budget results normally in some financial control. Therefore, caution should be observed not only in respect of becoming dependent on such funding but also in respect of the control exercised, which may never include control of the content or priority of activities.

61. Funding the associations of judges should not harm their non-profit character, which means that the generation of income must not be their primary purpose. An association must not distribute among its members any profits arising

⁵⁸ Joint Guidelines on the Freedom of Association, para 32.

from its activities but should invest them in the association for the pursuit of its objectives⁵⁹. Associations of judges should have in place strict transparency rules about their funding.

D. Internal structure

62. Associations of judges claim to act on behalf of their members and to be guided by a common will. This requires a democratic structure within the association and decisions to be taken and activities exercised in a transparent way. This is even more important if associations, due to their high representativeness, intend to speak on behalf of all judges or all judges of a certain jurisdiction.

63. To meet these requirements, the CCJE recommends that officers of the association (president, executive board, others) should be elected in a democratic, non-discriminatory way by their members or delegates elected by their members. Decisions of the board or other executive organs should be transparent and reasoned. An open dialogue between members and officers should be established, giving a fair chance to each group within the association to be heard, without any discrimination.

E. Relations with political parties

64. Associations of judges and their officers should not be part of, or inclined towards, a political party. Attempts by political parties or groups to influence the politics of the association or the elections of its officers should be clearly

⁵⁹ Ibid., para 43.

rejected. Representatives of the association should not be seen as agents of political groups but as actors who are committed only to the requirements of the justice system. This does not mean that associations of judges do not interact with political parties. In order to convey and fight for the needs and necessary reforms of the justice system, the rule of law and respect for human rights, associations of judges may have to engage, if debates are necessary, in exchanges with political parties having committed themselves to democracy and the rule of law.

65. The CCJE is not in favour of systems where different groups of members within an association are sponsored, designated or supported by different political parties, especially during times of campaigns for the election of officers of the association.

F. Associations of judges and trade unions

66. Judges' working conditions, their remuneration, pension and security should be safeguarded by the State. Thus, judges face a similar challenge to protect and improve their personal situation as other individuals vis-a-vis their employers, and in this respect, associations of judges have similar interests as trade unions.

67. Judges can also form trade unions and join trade unions⁶⁰. Legislation may impose some restrictions on these rights in respect of judges, but these restrictions must not totally

⁶⁰ Commentary to Bangalore Principles of Judicial Contact, para 176.

deprive judges of these fundamental rights⁶¹.

68. The practice of membership of judges in trade unions in member States varies considerably. In some member States, legal and cultural tradition sees such membership as incompatible with the position and the role of a judge. In other member States, some judges are members of trade unions and of associations of judges at the same time. And there are some associations of judges who are recognised as trade unions or see themselves as such⁶². Sometimes, the status as a trade union provides them with additional means.

69. These different traditions have to be respected. Nevertheless, the CCJE has to underline that care must be taken that, if trade unions are dominated by party politics, such politicisation does not affect the judges and their image. Otherwise such practice could lead to allegations of bias and lack of impartiality.

VII. Status, objectives and role of international associations of judges

70. During the last decades, Europe very quickly developed a common legal space. On the one hand, more and more instruments for cross-border co-operation between the national judiciaries were created. On the other hand, under the umbrella of the ECHR and the jurisprudence of the

⁶¹ See ECtHR *Matelly v. France*.

⁶² Finland, France, Greece, Luxemburg (association is a non-registered subsection of a union for public servants), The Netherlands.

European Court of Human Rights, the common European fundamental values have impacted directly on national legal systems and their functioning. In parallel, the development of jurisprudence and the power of standard-setting and of execution of common regulations was partly shifted to actors at European level. These new European institutions were created and filled by way of the influence of members of the national executive or legislative powers.

71. The developments described above have been accompanied by steps by representatives of national judicial powers to become involved also at the European level. Several European associations of judges have been established, some of which are federations of national associations, while others have as their members judges of different countries, and others again provide membership for national associations as well as individual members.

72. For their members, such associations provide an important opportunity to exchange experiences of different legal systems and of the interpretation of common standards and values.

73. Like national associations of judges, the European associations of judges are committed to the objectives of defending and fostering the independence of judges and the judiciary and safeguarding and promoting the rule of law.

74. They try to establish a dialogue with actors at European level, to contribute to standard-setting at this level and to draw the attention of European authorities to problems in the justice systems in member States.

75. European associations of judges observe the developments of justice systems in member States and their conformity with European standards. They are a melting point of vast experience and a platform for exchange between national judiciaries while also working to promote European standards. European associations contribute considerably to informing their members about European developments and new jurisprudence and standard setting, as well as to training on European standards.

76. By their membership in European associations of judges, national associations have a better opportunity to signal problems to the European authorities and they can strengthen their own influence due to the reputation of European associations. In member States themselves, arguments are sometimes taken more seriously if they are put forward by a European actor.

77. The CCJE, which has accepted European associations of judges as observers, is grateful for their fruitful contributions to its reflections. It recommends that other European actors follow this example in order to involve these associations in their work.

VIII. How member States should deal with associations of judges

78. The main objectives of associations of judges - fostering and defending the independence of judges and of the judiciary, the rule of law and human rights - are aligned with the fundamental principles of the Council of Europe and the commitments of its member States. This common interest should lead to common efforts of associations of judges and

member States.

79. States must not only refrain from applying unreasonable indirect restrictions on the right to assemble peacefully and to associate and on the right to freedom of expression⁶³ but must also safeguard these rights⁶⁴.

80. Member States should therefore provide a framework, which makes it possible for judges to freely exercise their right to associate and within which associations of judges can fruitfully work to fulfil their objectives.

81. Associations of judges and member States should engage in an open and transparent dialogue based on trust, on all relevant issues regarding the justice system.

82. Politicians should refrain from trying to influence judges or their associations to support interests of party politics neither by threats, unjustified accusations or media campaigns nor by providing professional promotions or benefits for the officers or the members nor by other means.

83. Member States should use their influence on European institutions and support initiatives to establish and facilitate a dialogue between these institutions and European associations of judges.

⁶³ See ECtHR *Kudeshkina v. Russia* (26.02.2009).

⁶⁴ For negative and positive obligations, see ECtHR *Öllinger v. Austria*, para 35 et al; see the Report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of 21 May 2012 (A/HRC/20/27), paras 33-42.

IX. Conclusions and recommendations

1. Associations of judges are self-governing non-profit organisations composed of members who voluntarily apply for membership.
2. The CCJE considers it highly desirable that in every justice system, at least one such association of judges exists.
3. Member States have to provide the framework in which the right of judges to associate and the right to freedom of expression can effectively be exercised, and they have to refrain from any interventions which might infringe the independence of the associations of judges.
4. The most important objectives of associations of judges are to establish and defend the independence of judges safeguarding their status and seeking to ensure adequate working conditions for them, and to foster and improve the rule of law.
5. Associations of judges can also play an important role as regards the training and ethics of judges and contribute to judicial reforms.
6. By virtue of their role and work, associations of judges may provide a decisive contribution to the functioning of the justice system and the rule of law. In all cases, such contribution should be important and valuable.
7. It is advisable that associations of judges be provided with a possibility to consider and comment on intended legislation in matters connected with the status of judges and the administration of courts.

8. A dialogue between court administrators and representatives of associations of judges, based on openness and mutual respect for their respective roles will foster the effectiveness of the justice system and its reforms.

9. Associations of judges are well placed to inform the media and the public at large about the role and functioning of the judiciary and judges.

10. Associations of judges should avoid orienting their activities according to the interests of political parties or candidates for political office, and they should not involve themselves in political issues. Their activities should be restricted to the field of their objectives.

11. Associations of judges should be structured in a democratic way. Financing and decision-making should be transparent at least for the members.

12. Judges cannot be obliged to disclose their membership in an association of judges.

13. Associations of judges facilitate transborder co-operation and enable exchanges with associations in other member States. They associate also at European level through a number of European judicial associations and organisations.

14. The associations of judges at European level play a significant role in promoting and protecting European values and European legal standards in the field of the rule of law and human rights. Therefore, national and international authorities should pay due attention to the work of those associations.

15. The CCJE recommends that European institutions rely on, and make use of, the experience and observations which European associations collect from different member States and judicial systems.

16. CCJE promotes regular exchanges between associations of judges and European stakeholders.