

INTERNATIONAL CRIMINAL BAR CONSTITUTION

PART ONE INITIAL PROVISIONS

Article 1

Definitions

The following words or acronyms shall bear the following meanings in this Constitution:

Association of counsel—Independent association of legal practitioners or Bars, qualified for collective membership, and recognised as such by the Council.

Bar—An independent body of which counsel authorised to practice in the jurisdiction of the body are members, and recognized as such by the Council. In this Constitution, “Bar” refers also to Law Societies.

Council—The governing body of the International Criminal Bar, comprising the “Bestuur” (management) under the law of the Netherlands.

Counsel—Counsel, legal representatives and persons offering legal assistance or services, as described in the Statute of Rome of 17 July 1998 and the Rules of Procedure and Evidence of the International Criminal Court.

Court—The International Criminal Court, created by the Statute of Rome of 17 July 1998.

Executive Committee—The Executive Committee of the Council.

ICB—The International Criminal Bar as established in Montreal on 15 June 2002.

Members—Persons, whether natural or juridical, qualified for any category of membership of the International Criminal Bar, who have joined the International Criminal Bar, upon payment of annual fee, and whose membership has not been terminated.

General Assembly—The General Assembly of the ICB.

Present and voting—shall mean present in person or by proxy, and voting as provided in article 9, 10, 11 and 16, as the case may be.

Proxy—Authority in writing, but shall not include electronic mail, delivered or transmitted to the Secretary of the Executive Committee not less than seven days before the meeting to which it applies.

Writing—Any form of writing, including electronic mail and facsimile transmissions.

Article 2

Name, Legal Organisation and Seat

1. The name of this association shall be the International Criminal Bar (ICB).
2. The ICB shall be established as an association pursuant to the law of the Netherlands.
3. The seat of the ICB shall be at The Hague, The Netherlands.

Article 3

Objectives

1. The objectives of the ICB are:
 - a. It shall promote and defend the role and independence of counsel for the defence and for victims before the Court.
 - b. It shall promote the principle of freedom of choice of counsel.
 - c. It shall facilitate the work of counsel before the Court.
 - d. It shall promote effective communication between the organs of the Court and counsel.
 - e. It shall promote the acquisition of knowledge and skills of counsel before the Court.
 - f. It shall participate in regulating the practice of counsel before the Court.
 - g. It shall strive to promote the principle of complementarity in relation to the functions, rights and duties of national, regional and international associations of legal practitioners.
 - h. It shall strive to achieve equality of arms.
2. The ICB shall reflect in its organs the diversity of the legal systems and the geographical areas of the world.

Article 4

Functions

The ICB shall promote and advance:

- a. Ethics for counsel and disciplinary proceedings.
- b. Professional training.
- c. The development and administration of the legal aid system of the Court.
- d. The administration of the list of legal practitioners eligible to be appointed by the Court, the development and amendment process of the Elements of Crimes, Rules of Procedure and Evidence and other relevant instruments of the Court.
- e. General support for counsel before the Court.
- f. The resolution of disputes relating to the professional conduct of counsel and their remuneration.

- g. Other matters relating to the independence and effectiveness of counsel before the Court or the principles of the ICB.

Article 5

Membership

1. Membership of the ICB shall be voluntary.
2. An individual who qualifies to practice before the Court may be admitted as an individual member.
3. The following may be admitted as collective members:
 - a. Bars.
 - b. Associations of counsel.
4. Any other association concerned with the role of counsel at the Court may be accredited as an associate member.
5. The Executive Committee shall decide on admission as a member or accreditation as an associate member. Conditions of admission or accreditation as a member or associate member shall be determined by the Council. A person not so admitted or accredited will be notified in writing of the resolution of the Executive Committee no later than 60 days after application. He or she may lodge an appeal with the Council within 30 days of receipt of the notice of the resolution. Any such appeal shall be determined by the Council in writing within 120 days of receipt of the notice of appeal.

Article 6

Termination of membership

1. Membership shall cease upon:
 - a. the death or dissolution of the member;
 - b. the resignation of the member, which will become effective upon receipt by the ICB of the member's written resignation;
 - c. the discontinuation of membership, which will be decided by the Executive Committee if in its opinion:
 - (i) a member no longer satisfies the requirements for membership as outlined in this Constitution; or
 - (ii) a member no longer fulfils his or her obligations towards the ICB; or
 - (iii) the ICB cannot reasonably be expected to allow the membership to continue;
 - d. expulsion by the Executive Committee, which may only be decided upon when a member acts contrary to the articles, regulations and resolutions of the ICB, or where the conduct adversely affects the ICB in an unreasonable manner.

2. The membership shall end at the earliest date allowed following the day on which notice was given pursuant to clause 1 (b), (c) and (d).
3. A member, whose membership is discontinued or who is expelled shall be promptly notified in writing of the resolution and the reason(s) for which his or her membership is being discontinued or for which he or she is being expelled. The member may lodge an appeal with the Council within 30 days of receipt of the notice of the resolution. Pending determination of the appeal, the member shall be suspended from membership privileges. The suspended member, however, shall have the right to represent himself or herself before the Council.
4. A member may be suspended from membership, which may be decided by the Council on the grounds as mentioned in clause 1 (c) and (d). The member will be notified in writing forthwith of the resolution and the reason(s) for which he or she is suspended from membership. Within 60 days of the resolution, the Council shall make its decision in terms of Article 6 (1) (c) or (d), and the member shall be notified in writing forthwith. If suspension is not followed within 60 days by such decision, the suspension shall lapse.

PART TWO

GOVERNANCE OF THE INTERNATIONAL CRIMINAL BAR

Article 7

General Assembly

1. The General Assembly shall consist of all the members of the ICB.
2. All the powers and functions of the ICB which have not been vested in the Council by this Constitution or by the law of the Netherlands shall be vested in the General Assembly.
3. The General Assembly shall meet in biennial general meeting not later than six months after the end of the official year following the official year in which the general meeting is not held.
4. At the biennial general meeting the General Assembly shall inter alia:
 - consider the annual reports and financial statements by the Executive Committee for the past two years, accompanied by a report from the Council.
 - elect the members of the Council.
 - appoint the members of the Audit Committee, and such other committees as it may constitute.
 - consider proposals of the Council, the Executive Committee or of the members, specified in the notice convening the meeting, or in any notice issued in terms of sub-article (6).

5. The Executive Committee shall convene the meeting of the General Assembly by notice in writing (including the agenda) not less than 60 days before the date of the meeting.
6. Members may propose issues to be determined at a meeting of the General Assembly session by notice in writing to the Executive Committee at least 30 days before the date of the meeting. All members shall be notified of these issues by the Executive Committee not less than 20 days before the date of the meeting.
7. The Council may decide to convene special meetings of the General Assembly.
8. The members of the General Assembly may request in writing a special General Assembly meeting by petition of not less than one-tenth of the members. The Executive Committee shall then be obliged to convene a special General Assembly meeting within 30 days.
9. All General Assembly meetings shall be held at The Hague or such other venue as the Council may determine. The Council may also determine that meetings are held in a manner that is made possible by audio-visual aids, provided that all members are given the opportunity to participate in discussions and to vote.
10. Suspended members of the ICB, the Council or the Executive Committee shall not be entitled to attend or vote at meetings of the General Assembly.
11. The General Assembly may adopt rules relating to the functioning of the ICB and its organs, which shall be consistent with this Constitution, the law of The Netherlands, the Statute of Rome of 17 July 1998, the Rules of Procedure and Evidence, the Agreement on Privileges and Immunities, as well as the Code of Professional Conduct.
12. The General Assembly shall, not later than its second biennial meeting, review this Constitution and its manner of operation.

Article 8

Proceedings of the General Assembly

1. Meetings of the General Assembly shall be presided over by the President or co-President, and in his or her or their absence, a Vice-President.
2. The Secretary, or another person designated by the chairperson, shall keep minutes of each meeting. The minutes shall be available to all members. The minutes shall be confirmed and signed by the chairperson and the Secretary or such other person, and shall be subject to adoption at the next meeting of the General Assembly.

Article 9

Decisions of the General Assembly

1. A quorum of the General Assembly shall comprise twenty per cent of the collective members and twenty per cent of the individual members. The members comprising the quorum may be present in person or by proxy.
2. If the quorum cannot be obtained, then a second meeting with the same agenda shall be held within four weeks of the time of the original meeting. At the second meeting, a resolution may be adopted irrespective of the number of collective members or the number of individual members present.
3. In decisions of the General Assembly:
 - a. Individual members may cast one vote each.
 - b. Collective members may cast one vote each, subject to subarticle (c).
 - c. The votes of the Bars of each country shall be recorded as one joint vote per country.
 - d. Associate members shall be entitled to participate in all debates, but shall not vote, except in relation to Article 10(4)(d).
 - e. A decision of the General Assembly must be taken by a majority vote of the members present and voting. In the event of a decision being challenged at the meeting by a majority of the Bars present and voting, it may only be rescinded by a vote at that meeting of not less than three-fourths of the Bars present and voting. Elections of members of the Council may not be challenged in this manner.
4. Votes may be exercised by proxies. No person may exercise more than four votes in total, including votes by proxy.

Article 10

Elections to the Council

1. The Council shall have forty-two members, constituted as follows:
 - Twenty-one elected from representatives of Bars (five each from Africa, the Americas, Asia, and Europe; and one from Oceania);
 - Seven elected from individual members;
 - Seven elected from representatives of associations of counsel;
 - Seven elected from representatives of associate members, subject to article 11(9).
2. A person may stand for election to the Council from only one of the above colleges. Representatives of Bars and associations of counsel must be qualified to be individual members.
3. The General Assembly shall elect the members of the Council for four-year

terms. Re-elections to consecutive terms of office shall not be permitted, save in respect of persons initially (in terms of Article 18 (1) elected to two-year terms.

4. In the elections to the open seats of the Council:
 - a. Each individual member of the International Criminal Bar may vote for seven individual members of the Council. The seven candidates from different countries who receive the highest number of votes shall be declared elected. If candidates from fewer than seven countries receive votes, then more than one Council member from the same country may be elected.
 - b. Bars may vote for twenty-one representatives (five each from Africa, the Americas, Asia, and Europe; and one from Oceania). Each Bar may cast only one vote per candidate, provided that Article 9 (3) (c) shall apply to the votes cast by the Bars of the same country. The persons receiving the highest number of votes shall be declared elected.
 - c. Associations of counsel may vote for seven representatives, but no more than one representative of the national associations of counsel of any one country may be elected. Subject to this, the persons receiving the highest number of votes shall be declared elected.
 - d. Associate members may vote for seven representatives. The persons receiving the highest number of votes shall be declared elected.
5. Members of the International Criminal Bar shall make every effort to ensure equitable gender distribution in electing the members of the Council.
6. Members of the Council may be terminated or suspended by the General Assembly.
7. Any vacancy in the membership of the Council shall be filled by the General Assembly by an election conducted in writing in accordance with Article 9, with the necessary changes.

Article 11

The Council and the Executive Committee

1. The Council shall consist of the members elected as in Article 10.
2. If the membership of the Council falls below forty-two members, the Council shall continue to be lawfully constituted.
3. The Council shall meet at least twice a year on dates to be determined by it or failing such determination, by the Executive Committee.
4. The Council shall elect from any of its voting members an Executive Committee, consisting of not more than seven persons and comprising one or more Presidents, Vice-Presidents, Secretaries and a Treasurer. The Council shall fill vacancies on the Executive Committee. Five members shall be a quorum of the

Executive Committee. The term of the members of the Executive Committee shall be two years.

5. A quorum of the Council shall comprise eighteen deliberative members, including those present by proxy. No member of the Council may exercise more than four votes in total, including those by proxy.
6. The Council shall determine its own procedures for meetings.
7. The Council shall carry out the decisions of the General Assembly and shall direct the activities of the Executive Committee.
8. A majority of the representatives of the collective members present and voting and a majority of the individual representatives present and voting shall be required for a decision of the Council.
9. The representatives of the associate members may participate in discussions but shall not vote.

Article 12

Power of representation

1. The power of representation is allocated to:
 - the Council;
 - three members of the Executive Committee acting jointly.
2. The ICB may enter into agreements as referred to in article 2:44 of the Dutch Civil Code, comprising agreements to purchase, alienate or encumber real estate, and agreements to give security to third parties.

Article 13

Finances

1. The official year of the ICB shall run from the first day of January up to and including the thirty-first day of December.
2. The Executive Committee shall be obliged to keep all financial records and accounts of the ICB.
3. The Executive Committee shall submit to the members within six months after the end of the official year, except where an extension is authorised by the General Assembly:
 - (i) its annual report;
 - (ii) a balance sheet and financial statements of receipts and payments providing an accurate accounting of the administration conducted during the last year.
4. The General Assembly shall at its general meeting appoint at least two persons from among the members, who are not members of the Council, as an Audit Committee. The Audit Committee shall examine the statement of receipts and payments of the Executive Committee and report to the General Assembly at its

next meeting.

5. The Executive Committee shall keep the records referred to in clauses 2 and 3 for a period of seven years.

Article 14

Membership dues

The amount of the annual membership dues shall be determined by the General Assembly after a proposal by the Executive Committee.

PART THREE MATTERS OF DISCIPLINE

Article 15

Ethics and Discipline

1. The General Assembly shall prepare and adopt rules and procedures relating to ethics and discipline and shall submit these to the Court for approval.
2. The Council may appoint a Disciplinary Committee and such other bodies as may be necessary to give effect to these rules and procedures.

PART FOUR GENERAL PROVISIONS

Article 16

Amendments to the Constitution

1. Notice of a proposed amendment shall be given to members in writing not less than thirty days before the date of the meeting of the General Assembly.
2. An amendment to the Constitution shall be adopted by a two-thirds majority of votes of Bars present and voting in a meeting of the General Assembly, a two-thirds majority of associations of counsel present and voting and a two-thirds majority of individual members present and voting.
3. Amendments adopted by the General Assembly shall take effect after a notarial instrument has been drawn up in respect thereof in accordance with the law of the Netherlands. A member of the Executive Committee may be authorised by the Executive Committee to execute the instrument.

Article 17

Dissolution

1. The ICB may be dissolved by a resolution of the General Assembly, in accordance with the provisions of Article 16.

2. Any balance of funds remaining after dissolution and liquidation of assets shall be distributed as determined by the General Assembly.

PART FIVE
TRANSITIONAL PROVISIONS

Article 18

First election of the members of the Council

1. After the first election, members of the Council shall draw lots to determine the length of their terms, as follows:
 - For individual members, associations of counsel, and associate members, four members of the Council shall have four-year terms, and three shall have two-year terms.
 - For Bars from Africa, the Americas, Asia and Europe, three shall have four-year terms, and two shall have two-year terms. The member from Oceania shall have a four-year term.
2. Thereafter all elections shall be for four-year terms, under the rules described in Article 10 (4).

Article 19

First Audit Committee

Notwithstanding Article 13 (4), the Council shall appoint the first Audit Committee.

Berlin, March 2003