

**INTERNATIONAL OMBUDSMAN INSTITUTE (I.O.I.)**

**By-Laws**

**JUNE 2009**

# **INTERNATIONAL OMBUDSMAN INSTITUTE (I.O.I.)**

## **Article 1**

### **Name, Head Office and Activities**

- (1) The name of the Association shall be "International Ombudsman Institute (I.O.I.)".
- (2) The head office of the Institute shall be located at the office of the Austrian Ombudsman Board (Volksanwaltschaft), Vienna, Austria. The Institute shall extend its operations within the entire federal territory of Austria and abroad.
- (3) It may establish branch offices and branch associations within or outside Austria as the Board may deem expedient.

## **Article 2**

### **Corporate Seal**

The Corporate Seal shall be in such form as shall be determined by the Board and shall have inscribed thereon the name of the Institute.

## **Article 3**

### **Languages**

- (1) English, French and Spanish as well as any other language which the Board may deem to be appropriate to further the purposes of the Institute and the interests of its members, shall be the official languages gradually used by the Institute to carry out all its activities, including its daily operations and its publications.
- (2) Pursuant to the Austrian Associations Act, the Institute's By Laws must be in the German language. Likewise, all applications to and communications with the relevant Austrian authorities under the said Act shall be conducted in German.

## **Article 4**

### **Purposes and Principles**

- (1) The purposes of the Institute, whose activities are of a non-profit making nature, are:
  - (a) To promote the concept and institution of Ombudsman and to encourage its development throughout the world;
  - (b) To promote regional participation in the activities of the Institute and to develop regional constituencies with a view to decentralising the activities of the Institute;

- (c) To develop and operate programmes enabling an exchange of information and experience between Ombudsmen throughout the world and to encourage the professional development of members through co-operation;
  - (d) To support the autonomy and independence of members and encourage mutual understanding and assistance by and between members;
  - (e) To develop and operate educational programmes for Ombudsmen, their staff, and other interested people;
  - (f) To encourage and support research and study into the institution of Ombudsman;
  - (g) To collect, store and disseminate information and research data about the institution of Ombudsman;
  - (h) To provide scholarships and other types of financial support to individuals throughout the world to encourage the development of the Ombudsman concept and to encourage study and research into the institution of Ombudsman;
  - (i) To plan, arrange and supervise International Ombudsman Conferences;
  - (j) To conclude agreements with other international organisations which work in related or similar fields where this would not compromise the Institute's purposes or autonomy.
- (2) In pursuing the purposes set out above the Institute and its members recognise and support the following concepts and principles:
- Respect for human rights and fundamental freedoms;
  - Adherence to the rule of law;
  - Effective democracy and open and accountable government;
  - Access to justice for all.

## **Article 5**

### **Means to achieve the Institute's purposes (*Revenue*)**

The Institute's purposes are to be achieved by revenue to be generated or accrued from the following sources:

- (a) membership fees
- (b) donations and collections as well as other endowments
- (c) proceeds from the sale of the Institute's publications
- (d) proceeds from the delivery of seminars and the sale of seminar materials

## **Article 6**

### **Classes of membership**

The Institute shall have five classes of members known respectively as: Institutional member, Associate member, Individual member, Honorary Life member and Library member.

### **1. Institutional member**

A public institution whether titled Ombudsman, Mediator, Parliamentary Commissioner, People's Defender, Human Rights Commission, Public Complaints Commission, Inspector General of Government (Uganda), Public Protector (South Africa) or like designation, shall be eligible to become an Institutional member provided it exercises fully the following functions and meets the following criteria:

- (a) it is created by enactment of a legislative body whether or not it is also provided for in a Constitution;
- (b) its role is to protect any person or body of persons against maladministration, violation of rights, unfairness, abuse, corruption, or any injustice caused by a public authority;
- (c) it does not receive any direction from any public authority which would compromise its independence and performs its functions independently of any public authority over which jurisdiction is held;
- (d) it has the necessary powers to investigate complaints by any person or body of persons who considers that an act done or omitted, or any decision, advice or recommendation made by any public authority within its jurisdiction has resulted in actions of the kind specified in subparagraph 1 (b);
- (e) it has the power to make recommendations in order to remedy or to prevent any of the conduct described in paragraph 1 (b), and, where appropriate, to propose administrative or legislative reforms for better governance;
- (f) it is held accountable by reporting publicly to the Legislature or other appropriate public authority.
- (g) its jurisdiction is national, regional or local;
- (h) its jurisdiction applies to public authorities generally or is limited to one or several public authorities, or to one or several public undertakings;
- (i) its incumbent or incumbents are appointed or elected, according to the relevant legislative enactment, for a defined period and can only be dismissed, for cause, by the legitimate and competent authorities.

### **2. Institutional member by discretion of the Board of Directors**

A public institution which has jurisdiction over both public authorities and private bodies or which comes under the jurisdiction of an Institutional member shall be eligible to become an Institutional member at the discretion of the Board, provided that the institution meets the requirements of subparagraph 1 with any necessary modifications associated with jurisdiction over private bodies.

### **3. Associate member**

An institution that is created by enactment of a legislative body which is not eligible to become an Institutional member under subparagraph 1 or subparagraph 2 shall be eligible to become an Associate member provided it shares common or compatible interests with the Institute regarding the purposes and principles set out in Article 4 or performs functions of the kind set out in subparagraph 1.

#### **4. Individual member**

A staff member of an Institutional or Associate member or any other individual or any institution which is not eligible for Institutional or Associate membership shall be eligible to become an individual member provided he/she/it shares common or compatible interests with the Institute regarding the purposes and principles set out in Article 4 or performs functions of the kind set out in subparagraph 1.

#### **5. Honorary Life member**

An individual who has made an exceptional contribution in respect of the purposes of the Institute or who has rendered outstanding services to the Institute may be appointed an Honorary Life member by the Board, as long as this individual maintains common or compatible interests with the Institute regarding the purposes and principles set out in Article 4.

#### **6. Library member**

A library or scientific establishment interested in the publications of the Institute and the publications of its Institutional members shall be eligible to become a Library member.

### **Article 7**

#### **Procedures governing applications for membership or for reclassification of membership**

- (1) Applications for membership or for a change in class of membership shall be lodged, in the form prescribed by the Executive Committee, with the Secretary General. Prior to the Secretary General making a decision on an application, the Secretary General shall consult the Regional Vice-President of the region from which the application for membership originates to ascertain the Regional Vice-President's view of the application.
- (2) The Secretary General, subject to the provisions of paragraph 6, shall approve those applications which comply with the provisions of Article 6 subparagraphs 1, 3, 4 and 6, as appropriate, but may at his/her discretion, refer an application to the Membership Committee. When the Secretary General makes a decision on an application under this paragraph, he/she shall advise the Board accordingly.
- (3) Where the Secretary General refuses to grant the membership and/or the membership class requested by the applicant and does not refer the application to the Membership Committee and the applicant is dissatisfied with the decision, the Secretary General shall refer the application to the Membership Committee with the Secretary General's recommendation. The applicant for membership shall be given the opportunity to comment in writing to the Membership Committee on the decision of the Secretary General and the Committee shall take such comments into account before reaching a decision on the application. The Committee shall also have regard to paragraph 6 in reaching its decision. In the event of the Membership Committee being unable to reach a unanimous decision it shall refer the application for membership to the Board together with the Secretary General's recommendation and the comments, if any, of the applicant for membership on the Secretary General's decision. The Board shall have regard to paragraph 6 in reaching its decision.

- (4) If the applicant is not satisfied with the decision of the Membership Committee and in the event of a dispute between the applicant and the Membership Committee over the membership or the class of membership, the Secretary General shall submit the case by memorandum to the Board for decision, and deliver a copy of the memorandum to the applicant. The applicant may comment in writing on the memorandum, to the Board, before it makes a decision. The Board shall have regard in making its decision to paragraph 6.
- (5) The applicant may, if not satisfied with the decision of the Board, lodge an appeal to the Institutional members and may comment in writing on the decision of the Board. The Institutional members at their next regular meeting, shall make the final decision regarding the membership or the class of membership taking account of paragraph 6 and deliver a copy of the decision to the applicant.
- (6) When the Secretary General, the Membership Committee, the Board or the Institutional members are making a decision on a membership application or about the class of membership to be granted, they shall, when in doubt about the eligibility of the applicant for membership or for the class of membership requested, apply Article 6 in a fair, wide, inclusive and liberal manner in order to favour the membership or class of membership according to the applicant's request, provided they do so without compromising the application of the criteria of an Ombudsman institution, as set out in Article 6 subparagraph 1.
- (7) The aforesaid provisions on the class of membership do not apply to members of the 'International Ombudsman Institute in Canada'. All members of the 'International Ombudsman Institute in Canada' as at 30 June 2009 shall be granted the same class of membership held by them in the aforementioned Corporation at that date. The provisions on the class of membership shall apply if an application is made to modify the class of membership or if no application for membership is made to the Corporation by 31 December 2010. The payment of membership fees upon billing by the General Secretariat shall be considered as consent to become a member of the Association.
- (8) The Membership Committee shall be composed of the six Regional Vice-Presidents or their nominees. A nominee appointed for such purposes must be a Director appointed from the same region as the Regional Vice-President who nominates him/her. The President may, at his/her discretion, exercise the right to be an ex officio member of the Committee.

## **Article 8**

### **Fundamental rights and duties of members**

- (1) Any member shall have the right to participate fully in the activities sponsored by the Institute at the international level.
- (2) Only an Institutional member shall have the right to vote at any meeting of the Institute at the international level.
- (3) Notwithstanding the paragraph 1, a Library member cannot attend an international conference or meeting sponsored by the Institute at the international level, unless it is invited by the relevant host.
- (4) Only a member of the relevant region shall have the right to participate fully in the regional activities sponsored by the Institute or by a Regional Constituency.

- (5) Notwithstanding paragraph 4, a regional Library member cannot attend a regional conference or meeting, unless it is invited by the relevant host.
- (6) Only an Institutional member of the relevant region shall have the right to vote at any regional meeting sponsored by the Institute or by the relevant Regional Constituency.
- (7) Where a member is composed of several incumbents, all incumbents may participate in international or regional activities but there shall be only one vote per institution.
- (8) The host of a conference or meeting, either at the international or regional level, will determine any fees associated with the attendance of a member; the fees may vary according to the class of membership and must be previously approved by the Board or, if the case arises, by the Regional Constituency.
- (9) Any member shall be entitled to receive the publications of the Institute.
- (10) Every member shall comply with the By-laws and with generally accepted professional ethics governing the institution of Ombudsman and shall be impartial; he/she/it shall also discharge any activity arising from membership without incurring unreasonable fees or administrative charges.

## **Article 9**

### **Membership fees**

- (1) The members shall pay and be liable for such annual fees as shall be determined from time to time by Institutional members at a meeting following a recommendation as to the level of fees made by the Board or set by the Board for a class of members in accordance with Article 12, paragraph 2 (d).
- (2) Subject to paragraph 6 of Article 14, the members shall pay the annual fees within a reasonable time as determined by the Executive Committee.
- (3) Any Institutional member whose annual fees shall be in arrears before any meeting of members shall be ineligible to vote at such meeting.
- (4) The Board shall have the right at any time to cancel any member's membership for non-payment of fees for which the member is liable under the provisions of this paragraph.
- (5) In accordance with Article 12, paragraph 2 (i), the Board may make appropriate arrangements to ensure the effective application of this Article.

## **Article 10**

### **Loss of membership**

- (1) Membership of the Institute shall cease:
  - (a) as a result of the member concerned withdrawing from membership by a written notification to the Secretary General;
  - (b) on the cancellation of a membership by the Board for non-payment of fees in conformity with Article 9, paragraph 4;

- (c) if a member does not maintain the requirements of its particular membership classification; or
  - (d) if a member does not comply with Article 8 paragraph 10 or, directly or indirectly, precludes another member from exercising its rights under Article 8.
- (2) Except for withdrawal from membership under paragraph 1 (a), the loss of membership must be for cause and be decided by the Board of Directors, following a recommendation made by the Executive Committee following receipt of a report by the Secretary General. The Executive Committee shall submit the case by memorandum to the Board and deliver a copy of the memorandum to the member involved. The member involved may comment in writing on the memorandum to the Board, before it makes a decision.
- (3) With the exception of termination of membership pursuant to paragraph 1 (a), the member in question shall be entitled to have recourse to the Arbitral Tribunal of the Association (Article 28) if he/she does not accept the Board's decision.

## **Article 11**

### **Board of Directors (Board)**

- (1) The property and business of the Institute shall be managed by a Board of Directors.
- (2) The Board shall consist of:
- (a) One member being from the Ombudsman office hosting the next International Ombudsman Conference.
  - (b) An ex officio Secretary General who shall be an Ombudsman nominated by the Austrian Ombudsman Board after consultation with the Executive Committee.
  - (c) Three or four members elected from each region on the basis of:
    - a maximum of three members where there are less than 30 Institutional members;
    - a maximum of four members where there are 30 or more Institutional members.

The following regions shall be recognised:

Africa;  
 Asia;  
 Australasia and Pacific;  
 Caribbean and Latin America;  
 Europe;  
 North America; or  
 such other regions as may be determined from time to time by the Board.
- (3) The term of a Director either elected under paragraph 2 (c) or shall not exceed four years but a Director may be reappointed or re-elected in accordance with the rules adopted by the region electing the particular Director.



- (4) Any vacancy in the number of Directors representing a region shall be filled by that region without delay in accordance with the rules adopted by the region.
- (5) Individuals appointed under paragraph 2 (a) above must file consents with the Secretary General.
- (6) Individuals elected under paragraph 2 (c) above must be Institutional members in good standing. Where an Institutional member is composed of several incumbents only one of the incumbents may be elected.
- (7) A Director pursuant to paragraph 2 (c) above may be removed for cause by a vote of the Institutional members of the region.
- (8) Directors shall not receive any remuneration for their services but, by resolution of the Board, vouched expenses arising as a result of their attendance at annual or special meetings of the Board may be wholly or partially recouped.
- (9) If the President, Vice-President, Treasurer or any regional Vice-President is unable to carry out any of his/her functions because the budget for his/her office is insufficient to provide for the expenses of travel, accommodation, meals or any other administrative expenses relating to the fulfilment of their duties as President, Vice-President, Treasurer or Regional Vice-President, the Board may authorise a reasonable allowance for such part of any expense arising as the Board shall deem appropriate.
- (10) A Director whose term expires during the course of an annual or special meeting shall remain in office until the adjournment of the meeting.

## **Article 12**

### **Powers and functions of the Board of Directors**

- (1) The Board may exercise all the powers of the Institute as are not by the Austrian Law of Associations or by these By-laws required to be exercised by the institutional members at meetings.
- (2) The Board shall have the following powers:
  - (a) To authorise expenditures on behalf of the Institute from time to time and to delegate by resolution to an officer or officers of the Institute the right to employ and pay salaries to employees.
  - (b) To make expenditures for the purpose of furthering the purposes of the Institute.
  - (c) To enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of the Institute.
  - (d) To bring forward proposals for amendments to the By-Laws and to seek ratification by a majority of Institutional members (at a regular meeting of Institutional members or, subject to Articles 18 and 19, by a postal, telephone, facsimile or e-mail vote), for any proposed amendments to or repeal of any of the By-laws or for any variation in the fees recommended for Institutional or Associate members in the following financial year. However, the Board may in the period between regular meetings of Institutional members set a fee for a

particular class of members in circumstances which would warrant a differentiation in fees payable by that class of members. The Board may also make amendments to the By-laws which they deem to be purely administrative in nature.

- (e) The Board may meet by other electronic means that permit each Director to communicate adequately with each other, provided that:
    - 1. the Board has passed a resolution addressing the mechanics of holding such a meeting and dealing specifically with how security issues should be handled, the procedure for establishing a quorum and recording votes;
    - 2. each Director has equal access to the specific means of communication to be used;
    - 3. each Director has consented in advance to meeting by electronic means using the specific means of communication proposed for the meeting.
  - (f) To authorise membership of the appropriate class including the right to vote in the case of an Institutional member even though the applicant has not paid the membership fee; provided the applicant has been granted a partial or total fee exemption by the Executive Committee in accordance with paragraph 6 of Article 14.
  - (g) To fix the time and place for a meeting of the Institutional members.
  - (h) To exercise overall supervision of the Executive Committee and of the officers of the Institute having regard to the specific powers reserved to the Board in Articles 14, 21 and 23 respectively.
  - (i) To exercise overall supervision of the Regional Constituencies and Regional Officers with a view to strengthening their authority and effectiveness.
  - (j) To make appropriate arrangements to ensure the effective application of the By-laws and to develop rules and policies to that end.
- (3) The Board shall take such steps as they consider necessary to enable the Institute to receive donations and benefits with the object of furthering the purposes of the Institute.
- (4) The Board may from time to time:
- (a) borrow money upon the credit of the Institute in such amounts and on such terms as may be deemed expedient by obtaining loans or advances or by way of overdraft or otherwise;
  - (b) issue debentures or other securities of the Institute;
  - (c) pledge or sell such debentures or other securities for such sums and at such prices as may be deemed expedient;
  - (d) mortgage, hypothecate, charge or pledge, or give security in any manner whatever, upon all or any of the property (real and personal, immovable and movable), undertakings and rights of the Institute, present or future, to secure

any debentures or other securities of the Institute, or any money borrowed or to be borrowed, or any obligation or liability of the Institute, present or future;

- (e) delegate to such officer(s) or Director(s) of the Institute as the Board may designate all or any of the foregoing powers to such an extent and in such a manner as the Board may from time to time determine; and
- (f) set up and disestablish Standing Committees and/or Special Committees to deal with special projects or undertake certain tasks and to report to the Board subject to any conditions (e.g. in relation to quorums) as the Board considers necessary.

## **Article 13**

### **Honorary directors**

The Board may elect one or more Honorary Directors who shall have such rights as the Board may by resolution determine except that honorary officers shall not have the right to vote at meetings of the Board. The term of an honorary officer shall commence at the close of the meeting at which elected and cease at the close of the next annual meeting of the Board. Honorary Directors may be re-elected for an additional term or terms of one year each.

## **Article 14**

### **Executive Committee**

- (1) The Executive Committee shall consist of the President, the Vice-President, the Secretary General and the Treasurer. The President or the Vice-President, together with Secretary General or the Treasurer, shall represent the Institute.
- (2) The Executive Committee shall have full authority to exercise all the powers of the Board while the Board is not in session except the power(s): 1 – to amend, adopt or repeal the By-laws of the Corporation; 2 – to fill vacancies in the membership of the Committee; 3 – to amend or repeal any resolution of the Board; and 4 – to amend or repeal any restriction which may be imposed upon the Executive Committee from time to time by the Board by resolution. The Executive Committee may, however, only exercise the powers of the Board set out in subparagraphs (a), (b) of paragraph (2) of Article 12 and subparagraphs (a), (b), (c) and (d) of paragraph (4) of Article 12 if the amount does not exceed € 10,000. All the actions of the Executive Committee shall be reported to the Board at the next meeting of the Board.
- (3) Vacancies in the membership of the Executive Committee shall be filled by the Board.
- (4) Any member of the Executive Committee may be removed or replaced at any time by the Board and, with the exception of the Secretary General, shall immediately cease to be a member of the Executive Committee upon ceasing to be a Director.
- (5) The Executive Committee, at the request of a member located in a particular region, shall allocate that member to a different region when the allocation is justified by political, cultural, linguistic, or particular geographical considerations. Such allocations shall be subject to the approval of the region to which the member wishes to be allocated. The member concerned shall transmit a copy of its request to the Regional Directors of its present region and the Executive Committee shall consider the views of that region's Directors before making its decision.

- (6) If the Executive Committee is satisfied that insurmountable financial difficulties prevent a new or existing member from paying all or part of its annual membership fees, it may, for a period of one year, grant the member an interim exemption, total or partial, of those fees. This exemption may be extended by the Executive Committee upon renewed proof of continuing financial hardship subject to any general guidelines or policy laid down by the Board.

## **Article 15**

### **Meetings of Institutional members, the Board of Directors, the Executive Committee and the Membership Committee**

- (1) A regular meeting of the Institutional members shall be held in conjunction with each International Ombudsman Conference, at least however every four years.
- (2) A special meeting of the Institutional members may be called at any time by the Board or the Auditors on their own motion or pursuant to the written request of at least ten per cent (10%) of the Institutional members or the Auditors.
- (3) The quorum for meetings of Institutional members shall be a majority of the total number of Institutional members.
- (4) Immediately after each meeting of the Institutional members, the Board shall meet for the purpose of organisation, election of officers, and the transaction of other business.
- (5) The Board shall also meet each year between the regular meetings of the Institutional members at a place within or outside Austria as designated by the Board. In relation to meetings held outside Austria, the written consent of the Board members is required to be filed with the Secretary General. Special meetings of the Board shall be called by the Secretary General at the written request of the President, the Vice-President or at least twenty-five percent (25%) of the Directors. The quorum for meetings of the Board shall be a majority of the total number of Directors but not including Honorary Directors.
- (6) The Executive Committee shall meet at stated times by arrangement between the members following consultation between the President or the Vice-President and the Secretary General. These meetings may take place within or outside Austria. For meetings to be held outside Austria, the written consent of the Executive Committee must be filed with the Secretary General. The Executive Committee shall have its own rules or procedures. A valid meeting of the Executive Committee shall require the attendance of at least the President or Vice-President and the Secretary General or the Treasurer.
- (7) Meetings of the Membership Committee shall be convened by the Secretary General as and when required. The quorum for meetings of the Membership Committee shall be a majority of the total number of members of the Committee or their nominees.
- (8) At every meeting of the Institutional members or of the Board, as appropriate, the President, shall preside or in his/her absence the Vice-President or in the absence of both the President and the Vice-President, a Chairman chosen by a majority of the Institutional members present or of the Directors of the Board present, as appropriate. In the absence of the Secretary General, a person appointed by the Chairman shall act as Secretary General.

## **Article 16**

### **Advance notices of meetings**

- (1) Each Institutional member shall receive an advance written notice of the holding of a regular or special meeting of Institutional members not less than 30 days before the date of such meeting.
- (2) Each member of the Board shall receive an advance written notice of the holding of an annual or special meeting of the Board not less than 30 days before the date of such meeting, (other than a meeting referred to in paragraph 4 of Article 15).
- (3) Notices, when required to be given, shall be sent through the mail, by telegram, telex, facsimile or e-mail, to each member entitled to notice at his or her latest address recorded on the books of the Institute. A notice of meeting shall specify the place, day and time of the meeting and, in the case of a special meeting, the general nature of the business to be transacted. Where a special meeting of the Institutional members or of the Board is called to address an urgent matter, advance notices of at least 14 days shall suffice.
- (4) Unless otherwise provided by law, whenever any notice is required to be given under the Austrian Law on Associations or these By-laws, a waiver thereof in writing, signed by the member or members entitled to such notices, whether before or after the time stated therein shall satisfy the notice requirement.
- (5) Attendance of a member in person at any meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

## **Article 17**

### **Decision making at meetings**

- (1) Unless otherwise provided for in these By-laws, or the Austrian Law on Associations, any recommendation or decision of the Institutional members, in their general or special meetings, or of the Board, or of the Executive Committee or the Membership Committee or of a Standing Committee, shall be made by way of resolution passed by a majority of those present, entitled to vote and voting at such meeting, subject to any requirements in relation to quorums. "Those present" shall include those participating in the meeting as a result of paragraph 2 following.
- (2) Any Directors of the Board or members of the Executive Committee, Standing Committee or of the Membership Committee, as appropriate, may participate in a meeting of the Board, the Executive Committee, the Standing Committee or the Membership Committee, as appropriate, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. All members of the Standing Committee, Membership Committee, Executive Committee or the Board must consent generally or in respect of a particular meeting.
- (3) The members of the Association may meet by other electronic means that permit each member to communicate adequately with each other, provided that:

- a) the Board has passed a resolution addressing the mechanics of holding such a meeting and dealing specifically with how security issues should be handled, the procedure for establishing a quorum and recording votes;
- b) each member has equal access to the specific means of communication to be used;
- c) each member has consented in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

## **Article 18**

### **Decision making without meetings**

- (1) Subject to Article 19, unless the Austrian Law on Associations requires a meeting to approve a specific type of matter, nothing contained in the By-laws shall prevent the Institutional members, or the Executive Committee or the Membership Committee or any Standing Committee from passing resolutions without the need for a meeting provided:
  - (a) two thirds of the Institutional members, or the members of the Executive Committee or the Membership Committee or Standing Committee as appropriate confirm to the Secretary General in writing their consent to a decision being made by way of resolution without a meeting;
  - (b) the draft resolution is sent in writing to each member and a period of at least 30 days is given for a response in relation to normal business. If the Secretary General confirms that the matter is urgent, a period of at least 14 days shall apply, or if he/she confirms that an emergency exists, a period of 4 consecutive days;
  - (c) a majority of the Institutional members, or of the members of the Board or of the members of the Executive Committee or of the Membership Committee or of a Standing Committee confirm in writing their support for the resolution.
- (2) The communications in writing arising under paragraph 1 above may be sent through the mail, by telegram, telex, facsimile or e-mail.

## **Article 19**

### **Enactment, repeal or amendment of By-laws**

- (1) Subject to the provisions of paragraph 2, the By-laws of the Institute shall be enacted and may be amended or repealed only by a majority of the Institutional members present at any meeting duly and properly convened for that purpose by notice to the Institutional members.
- (2) Should the Board consider that any amendment or repeal to the By-laws or an article thereof is required as a matter of urgency, the procedure in Article 18 of the By-laws may be used for such purpose provided at least 30 days notice of the proposed amendment or repeal is forwarded to each institutional member. Any decision taken by the Board pursuant to this paragraph must be submitted to the next meeting of the institutional members for confirmation but until so submitted may be acted upon as if so confirmed.

- (3) The enactment, repeal or amendment of any article of the By-laws arising as a result of the procedures set out in this article shall not be enforced or acted upon until the approval as required by the Austrian Law on Associations has been obtained from the competent authorities.

## **Article 20**

### **Other committees**

- (1) The Board may, at any time and from time to time, establish such standing committees and/or special committees, consisting of one or more persons, at least one of whom shall be a member of the Board to be appointed by the President, to perform such duties and make such investigations and reports as the Board shall by resolution determine. Such committees shall report to the Board. Such committees shall determine their own organisation and dates, times and places of meeting and the quorum required for a valid meeting or other working arrangements including electronic conference facilities, unless otherwise directed by the resolution establishing them. In the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not he/she or they constitute a quorum, may unanimously appoint another person to act at the meeting in the place of any such absent or disqualified member.
- (2) The President may establish a Committee to assist the Secretary General in the determination of funding sources.

## **Article 21**

### **Officers of the Institute**

- (1) The officers of the Institute shall be the President, the Vice-President, the Secretary General, and the Treasurer and may include such other officers as the Board may from time to time by resolution determine. The officers shall be natural persons of full age.
- (2) The officers of the Institute, except the Secretary General, shall be elected at the annual meeting of the Board from amongst the Directors. The term of an officer shall commence at the close of the meeting at which elected and cease at the close of the meeting at which a successor is elected.
- (3) The Board may remove any officer, employee, or agent elected or appointed by the Board at any time whenever in its judgement the best interest of the Institute will be served thereby, but such removal should be without prejudice to the contract rights, if any, of the person so removed.
- (4) The Board shall have the power to fill any vacancy, except for the office of Secretary General, in any office occurring for whatever reason.
- (5) The Board may also appoint employees and agents by resolution upon the recommendation of the Secretary General.
- (6) The remuneration of all officers, employees and agents shall be fixed by the Board by resolution. No officer shall be precluded from receiving such remuneration by reason of the fact that he/she is also a Director of the Institute.

- (7) The officers of the Institute, except the Secretary General, shall hold office for one year and until their successors are elected or appointed in their stead. Officers may be re-elected for further terms of one year each.
- (8) Any officer may resign at any time by giving written notice to the Board, or to the President, or to the Secretary General. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- (9) No officer, agent or employee of the Institute shall have any power or authority to borrow money on its behalf, to pledge its credit, or to mortgage or pledge its real or personal property, except the Secretary General and then only within the scope and to the extent of the general or limited authority delegated by resolution of the Board to him/her.
- (10) The Board may require all or some officers as it shall deem necessary to be bonded for such amount as it may consider appropriate.
- (11) The Board may invite the outgoing President to remain as consultant to the Board for a period not exceeding one year.

## **Article 22**

### **General Secretariat, Secretary General**

- (1) The Secretary General shall manage the General Secretariat of the Institute. The Secretary General is appointed by the members of the Austrian Ombudsman Board (Volksanwaltschaft) amongst its members.
- (2) In the exercise of his/her statutory functions, the Secretary General is accountable to the Institute's Board. He/she may be removed by the Board at any time.
- (3) The Austrian Ombudsman Board (Volksanwaltschaft) shall run the General Secretariat and cover the personnel and operating costs, including the costs related to the Institute's website, as long as a member of the Austrian Ombudsman Board (Volksanwaltschaft) acts as Secretary General.

## **Article 23**

### **Duties of officers**

- (1) The President, when present, shall preside at all meetings of the Institutional members, the Board, the Executive Committee and the Membership Committee. He or she shall be charged with general supervision of the affairs and operations of the Institute.
- (2) The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and shall perform such duties as shall from time to time be imposed upon him or her by the Board.
- (3) The Treasurer shall have the custody of the corporate funds and securities. He/she shall also have other duties as may be imposed by the Board upon him/her from time to time. The Secretary General and the Treasurer shall give the Institute a bond in a sum and with one or more securities satisfactory to the Board for the faithful



performance of their duties of office, and for the restoration to the Institute in case of death, resignation, retirement or removal from office of all books, papers, vouchers, money and other property of whatever kind in his/her possession or under his/her control belonging to the Institute.

- (4) The Secretary General shall perform all duties relating to the office of Secretary General and any other such duties as may be imposed by the Board or the President upon him or her in accordance with the principles and purposes of the Institute. The Secretary General shall:
- (a) propose special projects to the Executive Committee for approval by the Board;
  - (b) be responsible for the publications of the Institute;
  - (c) maintain an updated list of funding sources for the financing of projects;
  - (d) be responsible for the recruitment of members;
  - (e) ensure that these By-laws are complied with by the regional constituencies and regional officers. On the resolution of the Board prepare and submit proposals for changes in the By-laws to the Executive Committee and the Board for approval by them and submission to the Institutional members for decision in accordance with Article 19;
  - (f) recommend and provide where practicable and necessary administrative support to members involved in developing or promoting their offices (including conferences, workshops etc.) and provide advice and consulting services generally on matters relevant to the Institute;
  - (g) identify possible funding sources for specific projects and negotiate and conclude agreements for the funding of the projects;
  - (h) ensure effective communication between the Institute and its members as well as with national and international organisations;
  - (i) develop and maintain relations with individuals and organisations dedicated to the promotion or protection of human and citizens rights;
  - (j) take the necessary measures to ensure the presence of the Institute worldwide and in particular, in conjunction with organisations involved in the defence and promotion of human rights, strive to promote the principles and concepts set out in Article 5;
  - (k) ensure that all the votes of the Institutional members and of the Board and the minutes of the meetings of the Institutional members, the Board, the Executive Committee and the Membership Committee are recorded in a book or books to be kept for that purpose; ensure that advance notices of meetings of the Board, the Executive Committee, the Membership Committee and Institutional members are given and that all records and reports are properly kept and filed by the Institute as required by law; be the custodian of the seal of the Institute and ensure that it is affixed to all documents to be executed on behalf of the Institute under its seal;

- (l) submit to the Board and the Executive Committee an annual report of the Secretary General and submit a report to the regular meeting of the Institutional members;
  - (m) shall keep full and accurate accounts of receipts and disbursements in books belonging to the Institute. He/she shall furthermore deposit all moneys and other valuable effects in the name and to the credit of the Institute and in such depositories as may be designated by the Board from time to time. He or she shall disburse the funds of the Institute as may be ordered by the Board, taking proper vouchers for such disbursements, and shall regularly render to the Treasurer and to the President and Directors at their regular meetings, or whenever they require it, an account of all the transactions carried out as Secretary General and of the financial position of the Institute.
  - (n) sit in an official capacity on:
    - the Board
    - the Executive Committee
    - the Membership Committee
    - such other Committee established by the Board from time to time in accordance with Article 20 as the Board consider appropriate; and
  - (o) be a de jure member of the Board, if not an Institutional member in his/her own right, the Executive Committee and the Membership Committee and takes part in meetings of Institutional members but without being entitled to vote.
- (5) All other officers elected by the Board shall have such authority and perform such duties as may from time to time be assigned to them by the Board.
- (6) If the President and Vice-President shall both be unable to perform the duties of their offices, the Board shall appoint any member of the Board to exercise the duties of the President for such period as shall be determined by a resolution of the Board.

## **Article 24**

### **Regional constituencies and Regional Officers**

- (1) Each region shall serve as a Regional Constituency of the Institute for the following purposes:
- (a) to promote regional participation in the activities of the Institute;
  - (b) to decentralise the activities of the Institute;
  - (c) to elect the Directors of the Board.
- (2) A Regional Constituency shall comprise all members irrespective of classification located in or allocated to that region, other than a member allocated to another region in accordance with paragraph 5 of Article 14.
- (3) Each Regional Constituency shall, as soon as practicable after its establishment, adopt a set of rules to guide its operations and shall proceed, within a reasonable timeframe, to organise its operations. Its Institutional members shall as a first step elect an officer called "Regional Vice-President", chosen from among the Directors of the Board for that region (the regional Directors). The Regional Vice-President shall advise the Secretary General of the Regional Constituency's rules and shall keep him/her advised

of any alterations made to them from time to time. The rules shall not be inconsistent with these By-laws.

- (4) If a regional Vice-President is elected by the Board as President, Vice-President or Treasurer of the Institute, he/she shall resign from the office of regional Vice-President and the Institutional members of the region shall elect a new regional Vice-President.
- (5) A regional Vice-President, shall be, in respect of that region, the deputy of the President, and shall have, within such region, the following duties:
  - (a) to represent the Institute and promote its purposes;
  - (b) to coordinate the activities of the Institute;
  - (c) to coordinate fund-raising, financing and other activities to raise resources for the region;
  - (d) to carry out the duties of the President to the extent delegated by the President with the approval of the Board; and
  - (e) to submit to the Board an annual report on the activities of the Regional Constituency.
- (6) Each regional Vice-President shall, in collaboration with the regional Directors and the region's Institutional members, and within a reasonable time, set up a procedure whereby the regional Directors shall be elected democratically. If agreement cannot be reached within a region on a procedure, the Executive Committee shall act as mediator and shall facilitate the reaching of agreement.
- (7) The Executive Committee shall in the interests of cost effectiveness provide operational support to regional constituencies and their members who so request and shall keep the activities of regional constituencies under review.

## **Article 25**

### **Authentication of documents and other instruments**

- (1) All cheques, drafts and orders for payment of money shall be signed in the name of the Institute and shall be countersigned by such officers or agents as the Board shall from time to time designate for that purpose.
- (2) All contracts, documents and instruments in writing shall be signed in the name of the Institute and shall be countersigned by such officers or agents as the Board shall from time to time designate for that purpose.
- (3) All contracts, documents and instruments in writing requiring the affixing of the seal of the Institute shall have the seal affixed by such officers or agents as the Board shall from time to time designate for that purpose.

## **Article 26**

### **Accounts, Financial Year**

- (1) The Institute's Board of Directors shall keep proper records which reflect:

- (a) the detailed income and expenditure of the Institute;
  - (b) the assets held by the Institute;
  - (c) liabilities of the Institute; and
  - (d) the payment of fees by members.
- (2) The accounts of the Institute shall be audited each year by **two** independent auditors who shall be appointed in accordance with Article 27.
- (3) The financial year shall begin on 1st July and terminate on 30th June.
- (4) Unless the Austrian Law on Associations and the By-laws provide otherwise, the Secretary General and the Treasurer shall prepare the income and expenditure account and a statement of the Institute's assets and submit them to the Board for approval within five months after the end of the financial year.

## **Article 27**

### **Auditors**

- (1) At each regular meeting of the Institutional members, the members shall, on the proposal of the Board, appoint two auditors to audit the accounts of the Institute. The auditors appointed will hold office until the next regular meeting of the Institutional members and may be reappointed. If auditors have to be appointed before the next meeting of the Institutional members, they shall be appointed by the Board. The remuneration of the auditors shall be fixed by the Board.
- (2) The Board shall provide the Institutional members with relevant information about the auditors whom they propose for appointment.

## **Article 28**

### **Dispute Resolution**

- (1) All disputes arising from the relationship pertaining to the Association shall be settled by the Arbitral Tribunal of the Association. It is a "conciliation body" for the purposes of the Austrian Act on Associations of 2002 and not an arbitration tribunal within the meaning of Sects. 577 et seq. Austrian Code of Civil Procedure (ZPO).
- (2) The Arbitral Tribunal shall consist of three institutional members. One party to the dispute shall name a member as arbitrator to the Board in writing. Upon the Board's request to be issued within seven days, the other party to the dispute shall name a member of the Arbitral Tribunal within 14 days. After communication by the Board within seven days, the named arbitrators shall elect a third institutional member as chairperson of the Arbitral Tribunal within another 14 days. In the event of a tie, the chairperson shall be elected by lot. The members of the Arbitral Tribunal shall not be members of any body - except for the meeting of the Institutional members - the operations of which are the subject-matter of the dispute.
- (3) The Arbitral Tribunal shall render its decision, after having granted both parties the right to be heard, in the presence of all its members by a simple majority vote. It shall pass its decision to the best of its knowledge and conscientiously. Its decisions shall be binding on the Association.

## **Article 29**

### **Indemnification of Directors, Officers, Employees or Trustees**

- (1) Each person who was or is a party, and each person who is threatened to be or is made a party, to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he/she is, or was, a Director, officer, employee or Institutional member of the Institute or is, or was, serving at the request of the Institute as a Director, officer, employee or Institutional member of another Corporation, may be indemnified by the Institute to the full extent permitted by the laws of Austria in effect at the time of such indemnification.
- (2) The foregoing right of indemnification shall inure to the benefit of the heirs, executors and administrators of each such person; shall not be exclusive of any other rights of indemnification to which any Director, officer, employee, Institutional member or other person may be entitled in any capacity as a matter of law or under any By-law, agreement, vote of Institutional members or Directors, or otherwise; and shall continue to apply to each such person who has ceased to be a Director, officer, employee or Institutional member.

## **Article 30**

### **Dissolution**

- (1) The voluntary dissolution of the Institute can only be decided at a meeting of the Institutional members and only by a two-thirds majority of the Institutional Members present, entitled to vote and voting at such meeting, subject to the requirements in relation to quorums.
- (2) Provided the Institute holds assets, this meeting of the Institutional members shall also decide on its liquidation. In particular, it shall appoint a liquidator and decide on whom any remaining assets shall be transferred to by the liquidator after liabilities have been paid. These assets shall, to the extent possible and permitted, inure to an organisation which pursues the same or similar purposes as the Institute, or otherwise be used for social welfare purposes.

June, 2009