

**EUROPEAN NETWORK OF COUNCILS FOR THE JUDICIARY**

**STATUTES (draft)**

<p><b>I. NAME, SEAT, AIM, OBJECTIVES AND ACTIVITIES</b></p> <p><b>Article 1 – Name</b></p> <ol style="list-style-type: none"><li>1. There shall be an international not-for-profit association under the name of « European Network of Councils for the Judiciary », abbreviated « ENCJ », in French « Réseau européen des Conseils de la Justice », abbreviated « RECJ ».</li><li>2. This association shall be governed by the provisions of Title III of the Belgian law of 27 June 1921 relating to non-profit making associations, foundations and non-profit making international associations.</li></ol>	<p><i>Compulsory provision</i></p>
<p><b>Article 2 – Seat</b></p> <p>The registered office of the association shall be at ....</p>	<p><i>We will have to decide on the precise location of the seat of the association, in Belgium (if the Belgian law is applicable).</i></p> <p><i>Note: the determination of the seat does not affect the ENCJ's ability to locate the organisation of its activities outside of Belgium.</i></p> <p><i>Before we finally decide on the seat for the association, it could be located on the 4<sup>th</sup> floor of the building where the Belgian High Council of Justice is situated (Avenue Louise, 65, 1050 Brussels – the official address of the HCJ is at the 2<sup>nd</sup> floor). The final decision on the location of the seat (in fact, the address of the Permanent Office) will not involve a change of the Statutes, but only a publication in the Official Journal of the Kingdom</i></p>

<p><b>Article 3 – Aim</b></p> <ol style="list-style-type: none"> <li>1. The association has as its aim the improvement of cooperation between, and good mutual understanding amongst, the Councils for the Judiciary and the members of the judiciary of the European Union Member States.</li> <li>2. The association shall exclusively and directly pursue international objectives of a non-profit making nature.</li> </ol>	<p><i>The definition of an aim for the association is required by the law. We took inspiration from the preamble to the ENCJ Charter</i></p>
<p><b>Article 4 – Objectives</b></p> <p>Within the framework of the creation of the European Area of freedom, security and justice and whilst fully respecting the competencies and autonomy of its individual members, the objectives of the ENCJ are co-operation between members on the following:</p> <ul style="list-style-type: none"> <li>o analysis of and information on the structures and competencies of members, and exchanges between the members ;</li> <li>o exchange of experience in relation to how the judiciary is organised and how it functions;</li> <li>o issues pertaining to the independence of the judiciary and other issues of common interest;</li> <li>o provision of expertise, experience and proposals to European Union institutions and other national and international organisations.</li> </ul>	<p><i>This provision comes from the ENCJ Charter.</i></p> <p><i>Nevertheless it is proposed to reinforce the principal of non-interference from ENCJ in the internal affairs of the members by reaffirming that the ENCJ will respect the competencies and the autonomy of its members.</i></p> <p><i>Moreover, “Exchanges between members” has been added in order to take account of the possibilities of the EU “Exchange Program for Judicial Actors”.</i></p>
<p><b>Article 5 – Activities</b></p> <ol style="list-style-type: none"> <li>1. The ENCJ shall develop an annual program of activities specifically related to the objectives in Article 4.</li> <li>2. Each member shall determine the participation of its representatives in the activities of the ENCJ.</li> </ol>	<p><i>This provision, taken from the ENCJ Charter, has been clarified.</i></p>

## **II. MEMBERS**

### **Article 6 – Founding Members**

The association is composed of the following founding members :

For Belgium : Conseil supérieur de la Justice – Hoge Raad voor de Justitie, Brussels

For Bulgaria : High Judicial Council, Sofia

For Denmark : Domstolstyrelsen, Copenhagen

For France : Conseil supérieur de la magistrature, Paris

For Hungary : Országos Igazságszolgáltatási Tanács, Budapest

For Ireland : En tSeirbhis Chúirteanna / Courts Service, Dublin

For Italy : Consiglio Superiori della Magistratura, Rome

For Lituania : Nacionaline Teismu Administracija, Vilnius

For Malta : Commission for the Administration of Justice, Valetta

For the Netherlands : Raad voor de rechtspraak, The Hague

For Poland : Krajowa Rada Sadonictwa, Warsaw

For Portugal : Conselho Superior da Magistratura, Lisbon

For Romania : Consiliul Superior al Magistraturii, Bucarest

For Slovenia : Republika Slovenija Sodni Svet, Ljubljana

For Slovakia : Súdna rada Slovenskej republiky, Bratislava

For Spain : Consejo General del Poder Judicial, Madrid

For the United Kingdom : Judges' Council of England and Wales, London

*The founding members are the present members of the ENCJ*

## Article 7 – Membership

1. Membership is open to all national institutions of Member States of the European Union which are independent of the executive and legislature, or which are autonomous, and which are responsible for the support of the judiciary in the independent delivery of justice.
2. Applications for membership shall be submitted to the General Assembly. If there is an objection by any member, the General Assembly shall refer the issue to the Steering Committee which shall make a recommendation. Admission of a new member shall require a unanimous decision by the General Assembly.
3. Members are free to resign from membership at any time. Membership terminates on notification in writing to the President.
4. The Steering Committee may propose the expulsion of a member of the association if it has committed serious breaches of the aims and objectives of the association. The Steering Committee must first of all give the member in question the opportunity to state its position. Any expulsion must be ratified by the General Assembly by a three quarters majority of the members. The Steering Committee may suspend the member in question until a decision to ratify has been taken by the General Assembly.
5. The status of observer may be granted by a unanimous decision of the General Assembly to :
  - the Ministry of Justice in European Union Member States where institutions as specified in Article 7.1 do not exist ;
  - the Institutions as specified in Article 7.1 from European Union candidate states
  - the European Union.

The observers are invited to take part in the General Assembly and may be invited to participate in ENCJ activities.

*The provisions of points 1, 2 and 3 come from the ENCJ Charter (art. 3 (1), (2), (3)).*

*This provision comes from the EJTJN Statutes. It also clarifies that the exclusion can take place only for grave faults to the association's obligations.*

*The provision of point 5 comes directly from the ENCJ Charter (art. 3 (5) and (6)).*

*However it is proposed to open up the possibility to admit as an observer an international institution such as the European Union.*

*Lastly, this point 5 details the rights of the observers. The precise details could be included in the Internal Rules.*

<p><b>Article 8 – Contributions</b></p> <ol style="list-style-type: none"> <li>1. Members shall pay an annual membership fee which will be used to cover the operating costs of the association. The membership fee shall be decided annually by the General Assembly, on a proposal from the Steering Committee, based on the association's needs.</li> <li>2. The annual membership fee thus fixed may not exceed the sum of € .... per member.</li> <li>3. Further arrangements for deciding annual membership fees, their payment and collection may be laid down in financial regulations adopted by the General Assembly on the proposal of the Steering Committee.</li> </ol>	<p><i>The membership fee would be annually fixed considering :</i></p> <ul style="list-style-type: none"> <li>- <i>the budget of the association and the income expected, notably from the European Union</i></li> <li>- <i>specific criteria to be fixed in the financial regulation.</i></li> </ul> <p><i>Note: the fixing of a maximum amount of membership fee is required by the law</i></p> <p><i>The other financial matters will be set out in the financial regulations.</i></p>
<p><b>III. BODIES OF THE ENCJ</b></p> <p><b>Article 9 – Bodies</b></p> <p>The ENCJ will consist of a General Assembly, a President, a Steering Committee and an Executive Board.</p>	<p><i>The structure of the organs rests on the principles of balance and accountability :</i></p> <ul style="list-style-type: none"> <li>- <i>balance between the General Assembly and the Steering Committee</i></li> <li>- <i>balance between the Steering Committee and the Executive Board</i></li> <li>- <i>balance between the organs and the Permanent Office which is under the control of the organs</i></li> <li>- <i>accountability of the Executive Board to the Steering Committee</i></li> <li>- <i>accountability of the Steering Committee to the General Assembly</i></li> <li>- <i>accountability of the President as the link between the organs that he chairs.</i></li> </ul> <p><i>The creation of an Executive Board has to be seen as a tool in the hands of the Steering Committee and the General Assembly, in order to control the functioning of the Network and to improve its efficiency.</i></p>

**Article 10 – General Assembly**

1. The General Assembly is endowed with all the powers necessary to achieve the aims and objectives of the association.
2. The General Assembly shall comprise representatives of each member of the ENCJ. It shall meet regularly, at least once in each calendar year. It shall be convened by the President at the venue indicated in the convening notice.

The meeting shall be convened by letter, fax, electronic mail or by any other suitable means of communication at least 30 days before the date of the General Assembly. The convening documents shall include the agenda, which shall be decided by the Steering Committee.

3. The Presidency of the General Assembly shall be held by the President or by a member of the Executive Board whom he appoints for that purpose.
4. The General Assembly has the power to amend the Statutes. It shall decide the financial regulations, the internal regulations and the Rules of Procedure for all bodies of the ENCJ.
5. The General Assembly shall elect the person who will exercise the Presidency of the ENCJ. It shall also elect the members of the Steering Committee in accordance with the provisions of these Statutes.
6. The General Assembly has the power to determine the policy and activities of the ENCJ.
7. The General Assembly may set up, on the proposal of the Steering Committee, commissions and working groups on specific themes in relation to the activities of, or to do with the organization of, the ENCJ and shall decide the membership of the commissions and of the working groups as well as their duration.

On the proposal of the Steering Committee, the General Assembly shall decide how to enable and maximize the participation of the members in the commissions and working groups.

8. The General Assembly shall approve the budget and the accounts.

*Several provisions of this article come from the ENCJ Charter.*

*The General Assembly is the sovereign organ of the association.*

*Composition : the representatives of each member*

*Meeting : at least once a year*

*Presidency : the General Assembly is chaired by the president*

*Competencies :*

- to amend the Statutes
- to adopt the rules of procedure and the internal regulations
- to decide on the admission and the expulsion of members and observers
- to fix the membership fee
- to determine the policy and the activities of the ENCJ
- to set up the Commissions and the working groups
- to elect the President of the ENCJ
- to elect the members of the Steering Committee
- to approve the budget and the accounts
- to approve the report of the activities of the Steering Committee.

## Article 11 – Quorum and Voting in the General Assembly

1. There shall be deemed to be a quorum when at least half of the members of the General Assembly are present.
2. Each European Union Member State represented in the ENCJ shall have six votes to be allocated between the members of the ENCJ coming from that member State.
3. The General Assembly shall act on the basis of an simple majority of the votes cast, with the exceptions of the matters specified in article 7 (which require varying majorities) and the changes to these Statutes, the adoption and the amendment of the Internal Rules and Rules of Procedure, and the dissolution of the ENCJ, all or any of which must be decided by at least three quarters of the votes cast.
4. On the proposal of the Steering Committee or, in case of emergency, on the proposal of the Executive Board, the President shall consult all members by e-mail. If he does so, a decision will be adopted if :
  1. at least a majority of the members formally respond by e-mail or by fax;
  2. the majority of these members approve the particular proposal.

The text of this article 11.4. will always be annexed to the e-mail commencing the consultation process.

5. Decisions and the minutes adopted by the General Assembly shall be recorded in a register by the President and lodged with the Permanent Office. The President shall communicate them to all members.

*Most of the provisions of this article come from the ENCJ Charter.*

*Number of votes per member: 6 votes per EU member state, to be divided, if the case arises, between the several members from the same State.*

*Quorum of presence : the majority of the members*

*Quorum of votes :*

- *the majority of the votes expressed (abstentions will not be counted)*
- *except for the changes to the statute (3/4)*
- *except for the admission of members and observers (unanimity)*

*It is also proposed a decision taking process by e-mail. This procedure will help to increase the responsibility of the members in the soundings to be taken by the ENCJ. So, for instance, it will be easier to take rapidly a decision on an opinion which will have been prepared by an expert committee for the European Union institutions.*

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<p><b>Article 12 – The President</b></p> <ol style="list-style-type: none"> <li>1. The President shall convene and chair the General Assembly, the Steering Committee and the Executive Board. He/she shall represent the ENCJ, especially in relation to dealings with the institutions of the European Union.</li> <li>2. The President shall be elected by the General Assembly for a period of two years. That term will not be immediately renewable. S/he shall take office on 1<sup>st</sup> January of the year following his/her election except for the first year of functioning of the association or if the President has to be replaced immediately.  Once elected, s/he will be invited to the meetings of the Steering Committee and of the Executive Board.</li> <li>3. In the case of his/her absence, the President may appoint a member of the Executive Board to replace him.</li> </ol>	<p><i>The function of the president is clarified :</i></p> <ul style="list-style-type: none"> <li>- he presides over all organs of the ENCJ</li> <li>- he represents the ENCJ</li> </ul> <p><i>The electoral system which is proposed will allow for an initial transitional period and also to ensure continuity between two presidencies. The incoming president will be elected 6 months before the end of the mandate of the president in office.</i></p> <p><i>In order to guarantee continuity between the two presidencies, it is proposed that the elected president should be immediately invited to the meetings of the Steering Committee and the Executive Board for the period between his election and his taking up office.</i></p>
<p><b>Article 13 – The Steering Committee</b></p> <ol style="list-style-type: none"> <li>1. The Steering Committee shall consist of the President and the representatives of eight members, elected by the General Assembly for a term of office of two years. The Steering Committee shall take effect immediately after its election. An elected member of the Steering Committee shall cease to be a member of it immediately on ceasing to be a member of his national institution which replaces him/her.</li> <li>2. Without prejudice of its other powers in these Statutes, the Steering Committee shall take all necessary measures for the proper operation of the ENCJ between meetings of the General Assembly and for the implementation of the program of activities of the ENCJ. The Executive Board will submit its proposals for activities to it. The annual report on the activities of the Steering Committee shall be submitted to the General Assembly for its approval</li> </ol>	<p><u>Composition :</u> <i>The Steering Committee is composed of the President and the representatives of 8 members, elected by the General Assembly elected for a two year period.</i></p> <p><u>Competencies :</u> <i>The Steering Committee has a general responsibility for the implementation of the program of activities of the ENCJ</i></p> <p><i>To be noted also that any member of the ENCJ which has a proposal to make will be invited to introduce it at the Steering Committee.</i></p>

<ol style="list-style-type: none"> <li>3. A meeting of the Steering Committee shall be convened by letter, fax, electronic mail or by any other suitable means of communication. The agenda shall be decided by the President. Every member of the Steering Committee shall have the right to propose items for inclusion on the agenda for the meeting. Any member of the ENCJ shall also have the right to propose an item for inclusion on the agenda for the meeting and, if it does so, shall be entitled to introduce the item at the relevant Steering Committee meeting.</li> <li>4. The Steering Committee is not quorate unless the majority of its members are present.</li> <li>5. Decisions of the Steering Committee require a majority of its members to be present. In the case of equality of voting, the President shall have a second and casting vote. The decisions shall be recorded in a register signed by the President and lodged with the Permanent Office. The President shall communicate them to the members of the association.</li> </ol>	
<p><b>Article 14 – The Executive Board</b></p> <ol style="list-style-type: none"> <li>1. The Executive Board will consist of the President and of 3 persons appointed by and from within the Steering Committee. These appointments to the Executive Board shall be of specific named individuals. Any of these 3 persons shall cease to be member of the Executive Board immediately on ceasing to be a member of his / her own national institution.</li> <li>2. The Executive Board shall be responsible for ensuring the proper functioning of the Permanent Office. The Executive Board will also be responsible for the functioning of the ENCJ in between meetings of the Steering Committee.</li> <li>3. The Steering Committee shall determine the tasks of every member of the Executive Board. Each member of the Executive Board shall be responsible for specific areas of activity. Each commission of the association shall be chaired by a member of the Executive Board.</li> <li>4. The meeting of the Executive Board shall be convened by letter, fax, electronic mail or by any other suitable means of communication. The agenda shall be determined by the President. Every member of the Executive Board shall have the right to propose items for inclusion on the agenda for the meeting.</li> <li>5. The Executive Board is not quorate unless three of its members are present.</li> </ol>	<p><i>At a time when the permanent structure of the ENCJ will be strengthened (see below The Permanent Office), it is important to reinforce the role of the members. That is why in this framework that it is proposed to create an Executive Board which would be a real management organ of the ENCJ.</i></p> <p><u>Composition</u>  <i>The Executive Board is composed of the president and 3 persons appointed by the Steering Committee from within its own membership. This point is very important because the Executive Board is not only close to the Steering Committee but will have within itself 4 members are also members of the Steering Committee. The Executive Board is a “more permanent” part of the Steering Committee.</i></p>

6. Decisions of the Executive Board require at least three of its members to be present. In the case of equality of voting, the President shall have a second and casting vote. They shall be recorded in a register signed by the President and lodged with the Permanent Office. The President shall communicate them to the members of the association.

Competencies

- to see the good functioning of the Office
- to coordinate the activities of the ENCJ and notably of the commissions and working groups
- to propose, in case of emergency, to make use of the decision making process per email

<p><b>IV. FUNCTIONING OF THE ASSOCIATION</b></p> <p><b>Article 15 – The Permanent Office</b></p> <p>The ENCJ shall have a Permanent Office independent of any member of the association. The Office shall function as an administrative unit under the authority of the President and the Executive Board.</p>	<p><i>In order to improve the efficiency of the ENCJ, and notably to take into account the recent developments related to the increasing importance of the European Area of freedom, security and justice, and of the possibilities of exchanges of experiences between the members, it is proposed to create a Permanent Office, composed of appointed staff.</i></p>
<p><b>V. BUDGETS AND ACCOUNTS</b></p> <p><b>Article 16 – Annual Budget and administration of the accounts</b></p> <ol style="list-style-type: none"> <li>1. The financial year shall commence on 1 January and end on 31 December.</li> <li>2. The funds of the association shall be used for the purpose of financing the structure and the administration of the ENCJ under the direction of the Executive Board which shall be accountable to the Steering Committee.</li> <li>3. Contributions in kind and money for specific projects and activities will be fixed by individual agreement between participants in the project. All such agreements shall be brought to the knowledge of all members.</li> <li>4. The Executive Board shall draw up an annual budget for the running costs for the following calendar year which shall be presented to the General Assembly for approval. The Executive Board has the duty to submit the previous year's accounts to the General Assembly for approval.</li> <li>5. Every two years, the General Assembly shall appoint two auditors from within the membership who shall present their report each year to the General Assembly when the accounts are be submitted for approval.</li> </ol>	<p><i>These – improved - provisions come from the ENCJ Charter and EJTN Statutes.</i></p>

**VI. GENERAL MATTERS**

**Article 17 – Modification of the Statutes and Dissolution of the Association**

1. Without prejudice to articles 50, § 3, 55, and 56, of the law of 27 June 1921 relative to non-profit making associations, foundations and non-profit making international associations, any proposal which aims to modify the articles of association or will lead to the dissolutions of the association must emanate from the Steering Committee or at least one fifth of the members.
2. Within three months of the above, the Steering Committee must inform the members of the association of any such proposal of the above nature, and the date of the General Assembly which shall deliberate it.
3. No decision is valid unless it is approved by a majority of three quarters of the votes cast in the General Assembly.
4. If less than three quarters of members of the association are present at this meeting of the General Assembly, a new meeting of the General Assembly shall be convened under the same conditions as above which shall take a definite and valid decision on the proposal in question, with the same majority of three quarters of the votes cast, irrespective of the number of members present.
5. Modifications to the Statutes of the association shall not become effective until approval by the competent authority in accordance with article 50, § 3, of the law and until publication to the Appendices of the Belgian Monitor in accordance with article 51, § 3, of the aforementioned law.
6. In case of liquidation, net assets after liquidation shall be allocated to a disinterested purpose determined by the General Assembly, with the same majority stipulated in this article.

*This provision is legally compulsory.*

**Article 18 – Other applicable rules**

Any matter not covered by these articles of association and particularly the formalities relating to publication shall be regulated by the Rules of Procedure and the Internal Regulations adopted by the General Assembly, or in accordance with the provisions of the Belgian law of 27 June 1921 relating to non-profit making associations, foundations, and non-profit making international associations.

Done at ..... ..

In .... copies.

*These provisions are legally compulsory.*

*Moreover it will be set out in the internal rules that the working languages will be English and French.*