



## EUROPEAN SOCIETY OF INTERNATIONAL LAW

### GENERAL ASSEMBLY

Friday 8 September 2017, 14.00-15.00

Sala Italia, Castel dell'Ovo, Naples

1. Welcome
2. Report of ESIL activities (Sept. 2016 – Sept. 2017)
3. Report by the ESIL Audit Committee (2016)
4. Proposed amendment to ESIL Bye-laws on Board elections (see appendix 1)
5. Proposed new ESIL membership fee structure, from 2018 (see appendix 2)
6. Proposed amendment to ESIL Bye-laws on Governance of Interest Groups (see appendix 3)
7. Forthcoming ESIL events
8. ESIL Teaching Corner
9. ESIL Travel Grants and ESIL Carers' Grants
10. Introduction of ESIL President and Executive Committee (Sept. 2017 – Sept.2019)
11. Any other business
12. Next ESIL General Assembly: ESIL Annual Conference, Manchester, September 2018

## APPENDIX 1: PROPOSED AMENDMENT TO ESIL BYE-LAWS ON BOARD ELECTIONS

Pursuant to Article 24 of the ESIL Articles of Association, the Board communicates to the General Assembly the following proposed amendment to the Bye-laws on the Rules of procedure for the election of the members of the Board of the European Society of International Law, for the Assembly's approval at its Naples meeting. Rule 11 of the Bye-laws is amended so that it will read:

### **"11. The procedure**

The election takes place by secret ballot. The general rules on quorum (Article 12 paragraph 3 of the Articles of Association) and on voting by proxy (Article 10 paragraph 4 of the Articles of Association) apply. Votes are only valid if the number of persons voted for on the sheet does not exceed the number of vacancies to be filled and if the number of persons voted for on the sheet is no less than the number of vacancies to be filled minus two. The ballot sheet will clearly indicate the minimum and maximum number of persons for whom votes can be cast."

### Reasons for the amendment

The procedure for Board elections is detailed in the election Bye-laws, which are determined by the Board after prior approval by the General Assembly.

The current system is a *multi-winner plurality based system*, in that candidates are ranked according to the number of votes cast, and the top  $n$  cohort (where  $n$  is the number of vacant seats on the Board) is elected, without any of the candidates needing to secure a majority of the votes cast. Thus, if 10 candidates are contesting 5 open seats, each voter can vote for up to 5 candidates, and the 5 candidates with the highest number of voters will be elected. The principal feature of this system is that each candidate is running against all of the other candidates, i.e. they win the elections not on the basis of the *absolute number* of votes they obtain, but on the basis of their *relative position vis-à-vis* the other candidates.

This system has functioned reasonably well. However it has been noted that there have been significant differences in how voters use their ballots. Most voters vote for a full or near-full ballot of candidates (i.e.  $n$  if  $n$  is the number of open seats). Many others, however, vote for only one or two candidates. For example, in the last elections, in which there were 7 open seats, 56% of voters voted for a full or near-full ballot (5-7 votes); 18% occupied a middle ground (3-4 votes), and 30% voted for only one or two candidates. Because elections are decided by the relative ranking of candidates, this means that the ballots of those voters who vote for only one or two candidates are mathematically more powerful than the votes of those voters who vote for a full or near-full ballot. In other words, a voter who votes only for candidate X does more to advance the prospects of candidate X than a voter who votes not only for X, but also for Y and Z.

The Board discussed this matter extensively, and was of the unanimous view that the consequent inequality in voting power among the different voters has a potentially distorting effect and should be addressed. Various options for amending the current system were considered, all of which have inevitable trade-offs between, on the one hand, reducing distortions in voting power, while, on the other, reducing the electors' freedom of choice.

The proposal that is now before the Assembly was felt to reflect an adequate balance between the two: it does not require voters to vote for a full ballot, but it does set a reasonably high *minimum* of votes that have to be cast. Thus, if  $n=7$ , the voter must vote for a minimum of 5 candidates and a maximum of 7, otherwise their ballot will be invalid. This solution will eliminate (or at the very least greatly reduce) the potentially distorting effect of those ballots in which the voter has voted for only one or two candidates, compared to the majority of voters who opted for more. The Board is confident that in light of the fact that candidates provide written statements before the elections and then present themselves to the Assembly, each voter will be able to make an informed choice and will be able to choose a minimum of qualified candidates. The Board also strongly encourages the members of the General Assembly to pay due attention to gender balance and geographical diversity when casting their votes.

### Note:

The current text of Rule 11 of the Bye-laws:

#### **11. The procedure**

The election takes place by secret ballot. The general rules on quorum (Article 12 paragraph 3 of the Constitution) and on voting by proxy (Article 10 paragraph 4 of the Constitution) apply. Votes are only valid if the number of persons voted for on the sheet does not exceed the number of vacancies to be filled.

Article 10(4) of the Articles of Association: "A member may cast a vote by granting a written proxy to a fellow member. A member may act as proxy on behalf of a maximum of three other members."

Article 12(3) of the Articles of Association: "Where the articles of association or the law do not determine otherwise, valid decisions can be reached by the General Assembly only when at least one twentieth of the regular members and not less than fifteen regular members are present or represented at the meeting; if the number of regular members is below fifteen, valid decisions can only be reached by the General Assembly when all regular members are present or represented at the meeting."

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## **APPENDIX 2: PROPOSED NEW ESIL MEMBERSHIP FEE STRUCTURE**

As part of its ongoing effort to make the Society as open and inclusive as possible (see the recently established travel and carers' grants), the ESIL Board has decided to initiate a fundamental revision of the membership fee structure. The existing structure - with its flat fee for all regular members - is unfair and acts as a significant barrier to entry for colleagues based in lower-income countries. To

make the system fairer, and increase the Society's presence in areas where it has historically been under-represented, the Board recommends to the General Assembly that a new, three-tiered fee structure be implemented, in which reduced fees are applied to members based in lower-income countries and where fee levels are more responsive to the diversity of income among countries, both in Europe and beyond. Full details are included below.

This initiative is in line with best practice in other leading scholarly associations - including ASIL, LSA, ISA, EISA - that all operate differential fees based on income or country of residence. The financial implications for the Society have been carefully considered and a cost analysis has been conducted. Based on current membership, the new fee structure would entail a loss of income of circa €7,000 per year. The Board takes the view that this is a reasonable cost, considering the participatory and distributive benefits. In any event, the risk is mitigated by the anticipated rise in membership and the presence of a sunset clause, allowing review of the new fee structure after an initial trial period.

For the purpose of the new fee structure, low income is defined as GNI per capita <\$1,005; lower-middle income as GNI per capita <\$3,955, and upper-middle income as GNI per capita <\$15,000 (World Bank data). The Board may update the placement of countries on the lists to further the strategic priorities of the Society.

## Proposed new fee structure

### **RULES**

- The new fee structure shall be introduced for an initial period of three years, after which time the Board will re-examine its operation and may recommend its extension to the General Assembly.
- Reduced membership fees are available to members based in low and lower-middle and upper-middle income countries who are unable to pay the standard membership fee. Eligibility is premised on country of residence, not nationality.

### **REGULAR MEMBERSHIP**

- €115 Standard fee
- €50 Upper-middle income countries
- €30 Low and lower-middle income countries
- €85 Retired persons

### **STUDENT MEMBERSHIP**

- €30 Standard fee
- €20 Upper-middle income countries
- €15 Low and lower-middle income countries

### **5-YEAR MEMBERSHIP**

- €500 Standard fee

Note: Standard membership fees have not increased since 2013.

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## APPENDIX 3: PROPOSED AMENDMENT TO ESIL BYE-LAWS ON GOVERNANCE OF INTEREST GROUPS

The bye-laws regulating ESIL Interest Groups have become outdated as a consequence of the reforms and developments of our Society. For example, Interest Groups are no longer obliged to provide a list of members since this is now managed by the ESIL Secretariat. Similarly, elections are now held electronically in collaboration with the Secretariat according to specific rules agreed with the Interest Group conveners so the conveners do not need to notify the result of the elections to the Board. In addition, the date of delivery of the Interest Groups' annual report has been changed, again at the request of the conveners, and may be changed in the future.

For all these reasons, in order to update the bye-laws so that they reflect current practice, the Board proposes the following redrafted text for approval by the General Assembly:

### Bye-Laws: Governance of ESIL Interest Groups

1. Interest Groups are administered by the Coordinating Committee and its members, in accordance with the ESIL Articles of Association and relevant ESIL rules, and subject to supervision by the ESIL Board. The relevant ESIL rules that govern the formation of Interest Groups, their governance and membership, as well as other relevant issues (the IG's websites, events organised by IGs, financial issues, etc.), are these bye-laws and the Interest Groups Policy Guidance.
  2. Every Interest Group elects a Coordinating Committee, of no fewer than three members, to conduct its business. Elections shall be held at intervals of no longer than two years.
  3. The number of members of the Coordinating Committee, and the intervals and procedure of elections will be decided by each Interest Group in accordance with the electoral rules outlined in the Guidelines for the Elections of ESIL Interest Group Conveners.
  4. Every Interest Group will submit an annual report to the ESIL Board in accordance with the Interest Groups Policy Guidance.
  5. The ESIL Board can at any time request information from the Coordinating Committee and take measures it deems necessary to protect the interests of members or ensure observance of the ESIL Articles of Association and Bye-Laws.
  6. For a period of no longer than one year after the establishment of an Interest Group, the initiators of the group may provisionally function as the Coordinating Committee and conduct the business of the Interest Group. During this time, elections shall be held.
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